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VOLUME IX

"THE KRUPP CASE"

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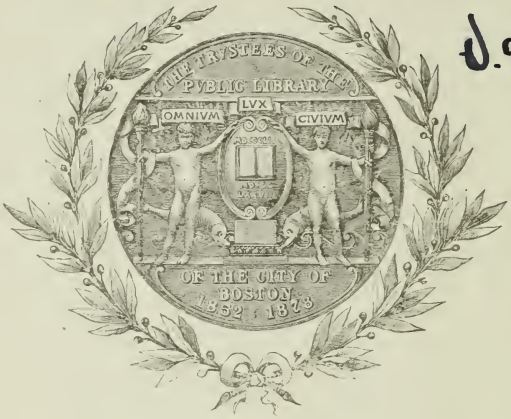

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International Military Tribunal

TRIALS
OF
WAR CRIMINALS
BEFORE THE
NUERNBERG MILITARY TRIBUNALS
UNDER
CONTROL COUNCIL LAW No. 10

NUERNBERG
OCTOBER 1946–APRIL 1949

VOLUME IX

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U.S. Superintendent of Documents
Aug. 10, 1951

"The Krupp Case"

Case 10

Military Tribunal III

THE UNITED STATES OF AMERICA

—against—

ALFRIED FELIX ALWYN KRUPP VON BOHLEN UND HALBACH, owner and directing head, EWALD OSKAR LUDWIG LOESER, EDUARD HOUDREMONT, ERICH MUELLER, FRIEDRICH WILHELM JANSSEN, KARL HEINRICH PFIRSCH, MAX OTTO IHN, KARL ADOLF FERDINAND EBERHARDT, HEINRICH LEO KORSCHAN, FRIEDRICH VON BUELOW, WERNER WILHELM HEINRICH LEHMANN, and HANS ALBERT GUSTAV KUPKE, officials of the Krupp firm and family enterprise, *Defendants*

TRIALS OF WAR CRIMINALS BEFORE NUERNBERG MILITARY TRIBUNALS

Case	*United States of America against*	*Popular name*	*Volume*
1	Karl Brandt, et al.	Medical Case	I and II
2	Erhard Milch	Milch Case	II
3	Josef Altstoetter, et al.	Justice Case	III
4	Oswald Pohl, et al.	Pohl Case	V
5	Friedrich Flick, et al.	Flick Case	VI
6	Carl Krauch, et al.	I. G. Farben Case	VII and VIII
7	Wilhelm List, et al.	Hostage Case	XI
8	Ulrich Greifelt, et al.	RuSHA Case	IV and V
9	Otto Ohlendorf, et al.	Einsatzgruppen Case	IV
10	Alfried Krupp, et al.	Krupp Case	IX
11	Ernst von Weizsaecker, et al.	Ministries Case	XII, XIII, and XIV
12	Wilhelm von Leeb, et al.	High Command Case	X and XI
	Procedure		XV

ARRANGEMENT BY SUBJECT UNITS FOR PUBLICATION*

Case	*United States of America against*	*Popular name*	*Volume*
		MEDICAL	
1	Karl Brandt, et al.	Medical Case	I and II
2	Erhard Milch	Milch Case	II
		LEGAL	
3	Josef Altstoetter, et al.	Justice Case	III
	Procedure		XV
		ETHNOLOGICAL (Nazi racial policy)	
9	Otto Ohlendorf, et al.	Einsatzgruppen Case	IV
8	Ulrich Greifelt, et al.	RuSHA Case	IV and V
4	Oswald Pohl, et al.	Pohl Case	V
		ECONOMIC	
5	Friedrich Flick, et al.	Flick Case	VI
6	Carl Krauch, et al.	I. G. Farben Case	VII and VIII
10	Alfried Krupp, et al.	Krupp Case	IX
		MILITARY	
7	Wilhelm List, et al.	Hostage Case	XI
12	Wilhelm von Leeb, et al.	High Command Case	X and XI
		POLITICAL and GOVERNMENT	
11	Ernst von Weizsaecker, et al.	Ministries Case	XII, XIII, and XIV

* Although the subject materials in many of the cases overlap, it was believed that this arrangement of the cases by volumes would be most helpful to the reader and the most feasible for publication purposes.

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INTRODUCTION

The trial of twelve officials of the Krupp concern was commonly referred to as the "Krupp Case" and is officially designated as United States of America *vs.* Alfried Felix Alwyn Krupp von Bohlen und Halbach, et al (Case 10). The Krupp Case was the third and last of the so-called industrialist cases tried in Nuernberg, the judgment being rendered on the day following the imposition of sentences in the "I.G. Farben Case."

Gustav Krupp von Bohlen und Halbach, the father of the first named defendant and the leading figure in the Krupp concern until 1943, was not indicted because of his continuing incapacity to stand trial for physical and mental reasons. Gustav Krupp had been indicted under all four counts of the indictment lodged with the International Military Tribunal (IMT) on 6 October 1945, being charged with crimes against the peace, war crimes, and crimes against humanity. However, before the trial began, the IMT granted a defense application for postponement of the proceedings against Gustav Krupp, and in its judgment the IMT stated, "the Tribunal decided that the defendant Gustav Krupp von Bohlen und Halbach could not then be tried because of his physical and mental condition, but that the charges against him in the indictment should be retained for trial thereafter, if the physical and mental condition of the defendant should permit."

Alfried Krupp and eight of his codefendants were members or deputy members of the Vorstand (Managing Board) of the concern for varying periods of time, and the other three defendants held other important official positions in the firm. After December 1943, Alfried Krupp was the sole owner and the directing head of the Krupp concern, assisted by a "Direktorium" composed of the former members or deputy members of the old Vorstand, excluding only the defendant Loeser.

All of the defendants were charged with crimes against peace and with participation in a common plan or conspiracy to commit crimes against peace (counts one and four). These charges were dismissed by the Tribunal shortly after the prosecution's case-in-chief was completed, upon a defense motion that the prosecution's evidence had failed to sustain these charges. All of the defendants, except Kupke and Lehmann, were charged under count two with plunder and spoliation activities during belligerent occupations by Germany of neighboring countries. Six of the ten defendants charged were found guilty under this count. All of the defendants were charged with war crimes and crimes against humanity in connection with the slave labor program of the Third

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Reich (count three) and all defendants, except Pfirsch, were found guilty under this count. The defendant Pfirsch alone was acquitted on all counts.

The Krupp Case was tried at the Palace of Justice in Nuernberg before Military Tribunal IIIA. The Tribunal convened on 103 separate days. Testimony was also taken at a number of sessions before three commissioners appointed by the Tribunal. The trial lasted approximately 11 months, as shown by the following schedule:

Indictment filed	16 August 1947
Arraignment	17 November 1947
Prosecution opening statement	8 December 1947
Defense opening statements	22, 23 March 1948
Tribunal order dismissing counts one and four	5 April 1948
Prosecution closing statement	24 June 1948
Defense closing statement	25–30 June 1948
Judgment	31 July 1948
Sentence	31 July 1948
Review of sentences by the Military Governor of the United States Zone of Occupation	1 April 1949

The English transcript of the Court proceedings runs to 13,454 mimeographed pages. The prosecution introduced into evidence over 1,400 written exhibits (some of which contained several documents) and the defense over 2,800 written exhibits. The testimony of over 200 witnesses was heard by the Tribunal or taken before the commissioners appointed by the Tribunal. Nearly two-thirds of the witnesses heard were defense witnesses. Three hundred and eighty of the prosecution's written exhibits were affidavits, whereas 1,309 of the written exhibits of the defense were affidavits. The Krupp Case was unique among the Nuernberg war crimes trials in that it was the only one in which none of the defendants took the stand in his own defense. However, seven of the twelve defendants took the stand for the limited purpose of supporting a defense claim that affidavits signed by several of the defendants before trial were not voluntary statements. Subsequently all defense motions to strike the affidavits in question were overruled and disallowed by the Tribunal. The exhibits offered by both prosecution and defense contained documents, photographs, affidavits, letters, charts, and other written evidence.

The members of the Tribunal, the commissioners of the Tribunal, and prosecution and defense counsel are listed on the ensuing pages. Prosecution counsel were assisted in preparing

the case by numerous staff members of the Office United States Chief of Counsel for War Crimes, including Walter H. Rapp, Chief of the Evidence Division; Fred Niebergall, Chief of the Document Branch; the following interrogators: Arthur T. Cooper, Eric Kaufman, Manfred A. Isserman, Paul H. Katscher, and Josef Schneider; and the following research and documentary analysts: Max H. Austein, Kaete H. Baumann, Leo Broudes, Henry A. Buxbaum, Cornelius M. Cosman, Vincent Czeisler, Bernard B. Fall, Fred Frautschi, Lucette L. von Halle, Ernest Heymann, Ursula Hirsch, Marcel Lobel, Otto Lowengart, Vladimir Mandl, Joseph C. Pallenberg, Walter Pollitzer, Rudolph Popper, Frederick A. Rager, Ernest A. Riedi, Emile Skraly, Hanns Schade, Walter J. Steen, Vassily K. Targoni, Ernst L. K. Tislowitz, and Margaret Wittan.

Selection and arrangement of the Krupp Case material published herein was accomplished principally by Norbert G. Barr, Cecelia Goetz, and Walter Schonfeld, working under the general supervision of Drexel A. Sprecher, Deputy Chief of Counsel and Director of Publications, Office United States Chief of Counsel for War Crimes. John P. Banach, Catherine Bedford, Henry Buxbaum, Gertrude Ferencz, Paul H. Gantt, Dr. Heinrich Eisold, Enid M. Standing, Rosamunde Schroedel, and Erna Uiberall assisted in selecting, compiling, editing, and indexing the numerous papers.

John H. E. Fried, Special Legal Consultant to the Tribunals, reviewed and approved the selection and arrangement of the materials as the designated representative of the Nuernberg Military Tribunals.

Final compilation and editing of the manuscript for printing was administered by the War Crimes Division, Office of the Judge Advocate General, under the supervision of Richard A. Olbeter, Chief Special Project Branch, with Max W. Carr and Robert F. Phelps as coeditors and John W. Mosenthal and Harry Jacobs as research analysts.

ORDER CONSTITUTING THE TRIBUNAL

HEADQUARTERS, EUROPEAN COMMAND

GENERAL ORDERS No. 126 — 21 November 1947

PURSUANT TO MILITARY GOVERNMENT ORDINANCE NO. 7

1. Effective as of 12 November 1947, pursuant to Military Government Ordinance No. 7, 24 October 1946, entitled "Organization and Powers of Certain Military Tribunals", there is hereby constituted Military Tribunal IIIA.

2. The following are designated as members of Military Tribunal IIIA:

H. C. ANDERSON, Presiding Judge
EDWARD JAMES DALY, Judge
WILLIAM JOHN WILKINS, Judge

3. The Tribunal shall convene at Nuernberg, Germany, to hear such cases as may be filed by the Chief of Counsel for War Crimes or by his duly designated representative.

4. Upon completion of the case presently pending before Military Tribunal III, and upon the dissolution of that Tribunal Military Tribunal IIIA shall be known as Military Tribunal III.

BY COMMAND OF GENERAL CLAY:

C. R. HUEBNER
Lieutenant General, GSC
Chief of Staff

OFFICIAL:
H. C. GARDE
Lieutenant Colonel, AGD
Asst Adjutant General

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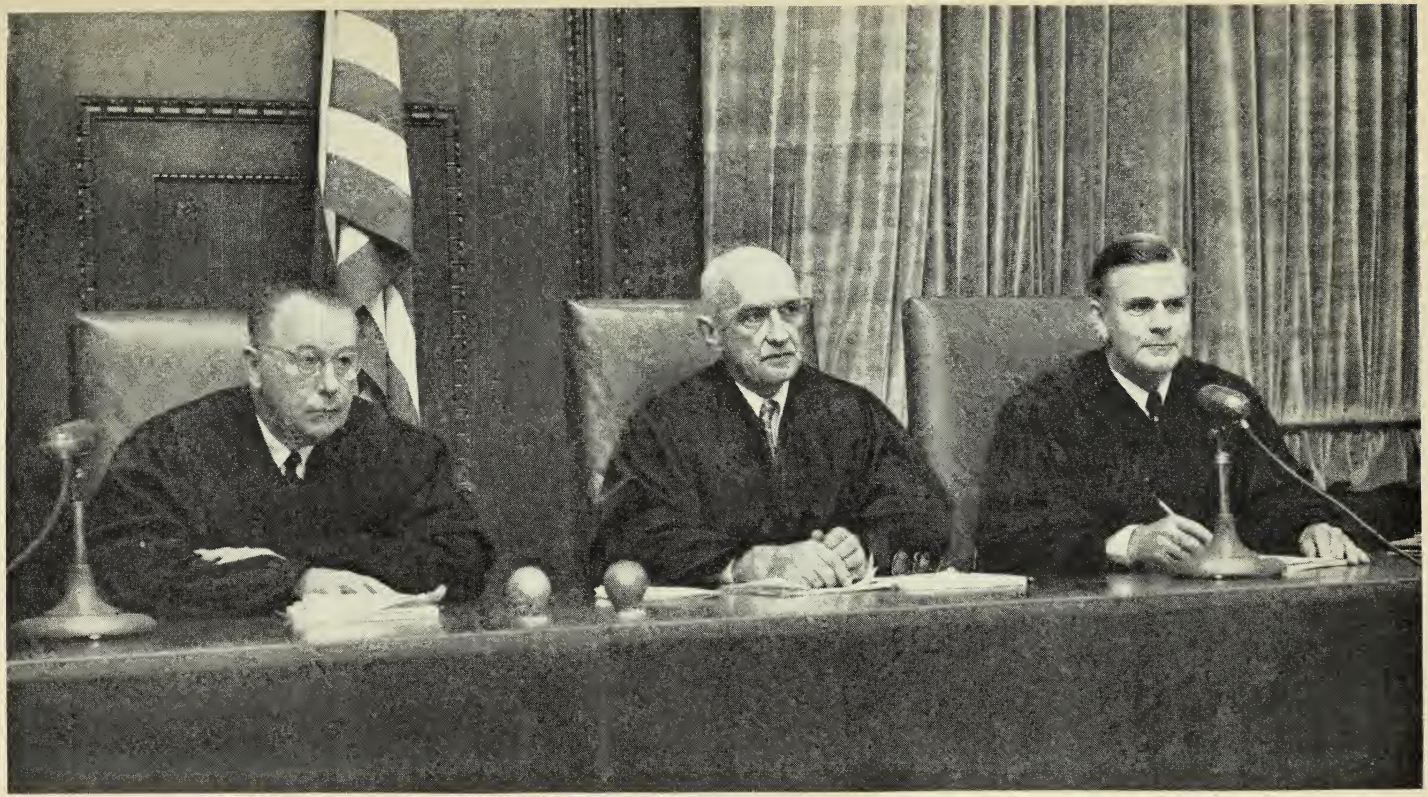
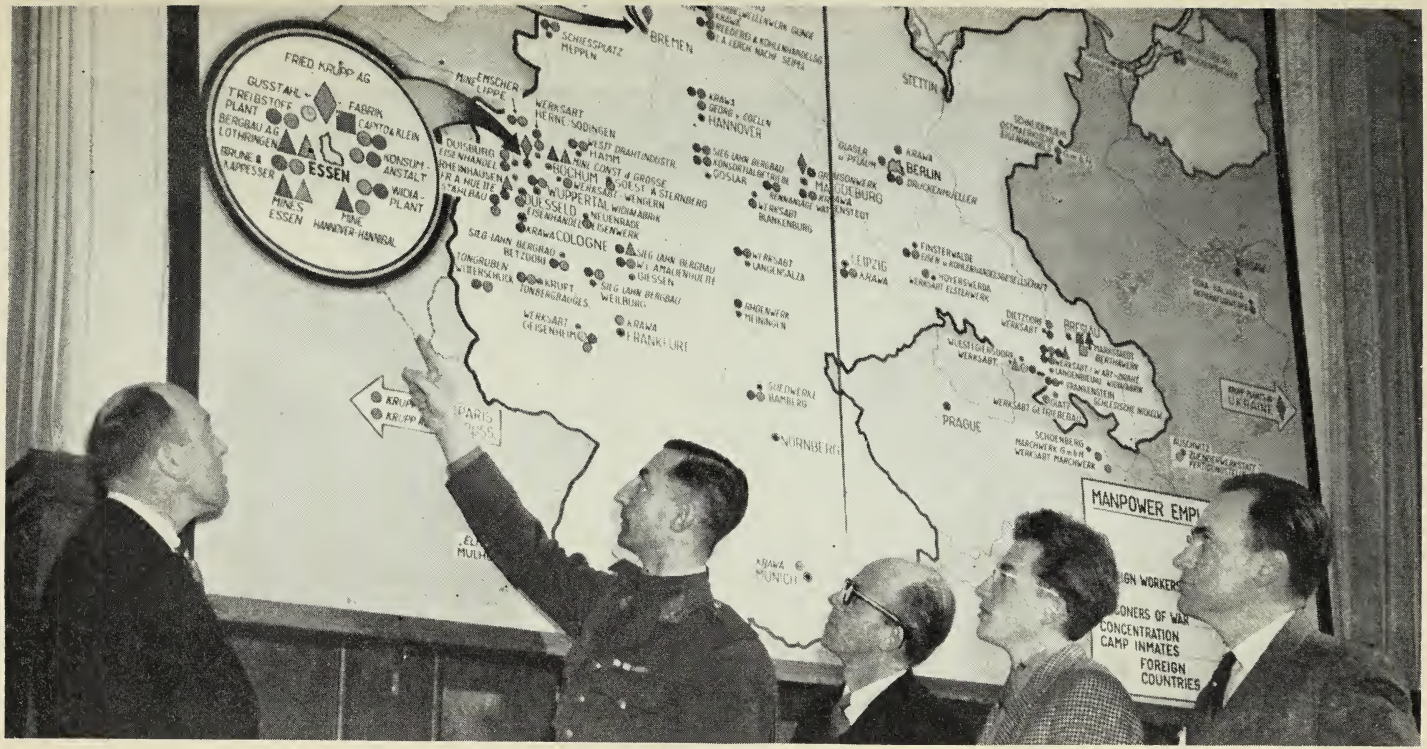


TRIBUNAL III—CASE TEN

Edward J. Daly; Hu C. Anderson, presiding; William J. Wilkins.

Courtroom scene during the arraignment. Brig. Gen. Telford Taylor, United States Chief of Counsel for War Crimes, is at the speaker's podium. Dr. Otto Kranzbuehler, Alfried Krupp's counsel, and a few of the defense attorneys appear in right foreground. Prosecution members and visiting dignitaries are seated at tables and inside the railing. Correspondents and visitors are in the gallery behind railing.



Father Alphonse Come, a chaplain in the Belgian Army, points out where he was impressed into labor service for the Krupp firm. Mr. Russell Thayer, of the prosecution, is at left. The others are, left to right, Paul Ledoux, government official; Jean Place, journalist; and Jacques Francois, lawyer; all Belgians who testified they were similarly impressed into labor service.

Defendants in the dock and defense counselors (in foreground) listen to the reading of the judgment. The defendants are, left to right: Alfried Krupp, Houdremont, Mueller, Janssen, Pfirsch, Ihn, Eberhardt, Korschan, von Buelow, Lehmann, and Kupke. Defendant Loeser, taken ill, was absent.

MEMBERS OF THE TRIBUNAL

JUDGE H. C. ANDERSON, Presiding.
Judge of Court of Appeals of the State of Tennessee.

JUDGE EDWARD J. DALY, Member.
Judge of the Superior Court of the State of Connecticut.

JUDGE WILLIAM J. WILKINS, Member.
Judge of the Superior Court, Seattle, Washington.

COMMISSIONERS OF THE TRIBUNAL

JUDGE JOHNSON T. CRAWFORD
Judge of a District Court of the State of Oklahoma.

MR. CARL I. DIETZ

MR. JOHN H. E. FRIED

ASSISTANT SECRETARIES GENERAL

MR. CHARLES G. WILLSIE_____From 17 November 1947 to 20 December 1947

MR. CARL I. DIETZ_____5 January 1948

MR. JOHN L. STONE_____From 6 January 1948 to 8 January 1948

MR. CHARLES G. WILLSIE_____From 9 January 1948 to 31 July 1948

PROSECUTION COUNSEL[1]

Chief of Counsel:
BRIGADIER GENERAL TELFORD TAYLOR

Deputy Chief Counsel:
MR. JOSEPH W. KAUFMAN (through December 1947)
MR. RAWLINGS RAGLAND (from December 1947)

Chief, Krupp Trial Team:
MR. H. RUSSELL THAYER

Associate Counsel:
MISS CECELIA H. GOETZ
MR. MAX MANDELLAUB

Assistant Counsel:
MR. JOHN A. BOWLER
MR. IRVING G. BRILLIANT
MR. HERBERT GOLDENBERG
MR. MAURICE O. HUEBSCH
MR. MAXIMILIAN KOESSLER
MR. MAURICE C. MYERS

Special Counsel:
MR. BENJAMIN B. FERENCZ[2]

---

[1] Only those members of prosecution counsel who spoke before the Tribunal or who conducted examinations in the trial are listed. Other counsel acting in preparation of the case for trial or in the writing of briefs included Drexel A. Sprecher (Director, Economics Division), Paul H. Gantt, and Richard Landsdale.

[2] Mr. Ferencz, Executive Counsel to the United States Chief of Counsel, participated as prosecution trial counsel during the case-in-chief of the defense.

DEFENSE COUNSEL

Defendants	*Defense counsel*	*Associate Defense Counsel*
BUELOW, FRIEDRICH VON	DR. WOLFGANG POHLE MR. JOSEPH S. ROBINSON[1]	DR. HERMANN MASCHKE DR. VON SCHLIPPENBACH (from 9 March 1948)
EBERHARDT, KARL	MR. KURT GOLLNICK (from 19 September 1947) DR. WALTER SIEMERS (from 20 February 1948)	DR. GERHART WEIZ MR. RUEDIGER WEIZ (from 30 March 1948)
HOUDREMONT, EDOUARD	DR. WALTER SIEMERS DR. KURT PESCHKE	DR. AENNE KUROWSKI-SCHMITZ
IHN, MAX	DR. OTTO KRANZBUEHLER	DR. KLAUS HENNIG DR. GUENTER GEISSELER[2] (from 15 January 1948 to 21 January 1948) DR. KARL ARNDT (from 6 February 1948)
JANSSEN, FRIEDRICH	DR. ALFRED SCHILF	DR. VIKTOR VON DER LIPPE
KORSCHAN, HEINRICH	DR. ERICH WANDSCHNEIDER	DR. ERHARD HEINKE (from 26 January 1948) DR. RUDOLF KUEHN (from 30 January 1948)
KRUPP VON BOHLEN UND HALBACH, ALFRIED	DR. OTTO KRANZBUEHLER	DR. WALTER BALLAS DR. FRITZ WECKER (from 15 March 1948)
KUPKE, HANS	DR. ALFRED BEHRINGER	DR. OSKAR STUEBINGER DR. ERICH MAYER (from 26 April 1948)
LEHMANN, HEINRICH	DR. GERHARD WEISE (to 30 January 1948) MR. HEINZ WOLF (from 30 January 1948)	MR. HEINZ WOLF (to 30 January 1948) MR. ERWIN HAACK (from 6 February 1948)
LOESER, EWALD	DR. KURT BEHLING	MR. GUENTHER WENDLAND
MUELLER, ERICH	MR. HEINRICH LINK	MR. OTTO REITZENSTEIN
PFIRSCH, KARL	DR. BERND VORWERK	MR. JOHANNES SCHMIDT
Special Counsel for all defendants	DR. WALTER BALLAS (from 12 February 1948)	DR. VON SCHLIPPENBACH (from 13 February 1948)

[1] Mr. Robinson is an American attorney. All other defense counsel are German attorneys.
[2] Disqualified as defense counsel on 21 January 1948 because of contempt of court.

I. INDICTMENT

[Including Appendixes A and B]

The United States of America, by the undersigned Telford Taylor, Chief of Counsel for War Crimes, duly appointed to represent said government in the prosecution of war criminals, charges that the defendants herein committed crimes against peace, war crimes and crimes against humanity, and participated in a common plan and conspiracy to commit crimes against peace, all as defined in Control Council Law No. 10, duly enacted by the Allied Control Council on 20 December 1945. These crimes included planning, preparing, initiating, and waging wars of aggression and invasions of other countries, as a result of which incalculable destruction was wrought throughout the world, millions of people were killed, and many millions more suffered and are still suffering; deportation to slave labor of members of the civilian population of the invaded countries and the enslavement, mistreatment, torture, and murder of millions of persons, including German nationals as well as foreign nationals; plunder and spoliation of public and private property in the invaded countries pursuant to deliberate plans and policies intended not only to strengthen Germany in launching its invasions and waging its aggressive wars and to secure the permanent domination by Germany of the continent of Europe, but also to expand the private empire of the defendants; and other grave crimes as set forth in this indictment.

The persons hereinafter named were all officials of Fried. Krupp A.G., Essen (1903–1943) and its successor, Fried. Krupp, Essen. The original enterprise of Fried. Krupp was founded in 1812. It was transformed into a corporation (A.G.) in 1903, which was succeeded in December 1943 by an unincorporated firm, Fried. Krupp, Essen, in accordance with a special Hitler decree. These firms constituted successively the family enterprise of the Krupp family and, together with their subsidiaries and other interests, are hereinafter referred to as "Krupp". The managing body of the Fried. Krupp A.G. is hereinafter referred to as the "Vorstand" [or Krupp Vorstand], and that of the succeeding unincorporated firm, as the "Direktorium" [or Krupp Direktorium].

The persons accused as guilty of these crimes and accordingly named as defendants in this case are—*

* See appendix "A" of this indictment for a more complete statement of the positions and activities of each of the defendants.

ALFRIED FELIX ALWYN KRUPP VON BOHLEN UND HALBACH, sole owner, proprietor, active and directing head of Fried. Krupp, Essen, and Fuehrer der Betriebe (leader of the plants), from December 1943; successor to Gustav and Bertha Krupp von Bohlen und Halbach, directing head and owner respectively of Fried. Krupp A.G.; previously active head, chairman of the Vorstand and head of the war material and raw material departments of Fried. Krupp A.G., Essen; Wehrwirtschaftsfuehrer (military economy leader); deputy chairman of the Reichsvereinigung Eisen (Reich Association Iron) and member of the Praesidium of the Reichsvereinigung Kohle (Reich Association Coal) (hereinafter referred to as the "RVE" and "RVK"); member of the Verwaltungsrat of the Berg- und Huettenwerksgesellschaft Ost G.m.b.H. (hereinafter referred to as the "BHO"); member of the Armament Commission (Ruestungsrat) in the office of the Reich Minister for Armament and War Production (Reichminister fuer Ruestung und Kriegsproduktion); member of the Nationalsozialistische Deutsche Arbeiter Partei (Nazi Party, hereinafter referred to as the "NSDAP"); sponsoring member of die Schutzstaffeln der Nationalsozialistischen Deutschen Arbeiter Partei (hereinafter referred to as the "SS"); Standartenfuehrer (colonel) of the Nationalsozialistisches Flieger Korps (National Socialist Flying Corps, hereinafter referred to as the "NSFK").

EWALD OSKAR LUDWIG LOESER, member of the Vorstand and head of the administrative and finance departments of Fried. Krupp A.G. until March 1943; Wehrwirtschaftsfuehrer; Krupp representative in the Kleiner Kreis (Small Circle, a group which exercised great influence over the coal, iron, and steel industries); Reich trustee for Philips Radio, Eindhoven, Netherlands, in 1944.

EDUARD HOUDREMONT, member of Krupp Direktorium and deputy member of the Vorstand, head of the metallurgical, steel, and machine departments; plant leader (Fuehrer des Betriebes), Gusstahlfabrik, Essen; Wehrwirtschaftsfuehrer; special commissioner for metal substitutes (Sonderbeauftragter fuer Metallumstellung) in Reich Ministry for Armament and War Production and the Ministry of Economics (Reichswirtschaftsministerium); advisor to the administrators of the Four Year Plan; member of the NSDAP.

ERICH MUELLER, member of Krupp Vorstand and Direktorium, head of the artillery designing and machine construction departments and coordinator of artillery construction; Wehrwirtschaftsfuehrer; armaments advisor to Hitler; advisor to the War Ministry; head of the Armament Committee (Waffenausschuss) in the office of the Reich Minister for Armament and Munitions; chairman of the Weapons Development Committee (Entwick-

lungskommission der Waffen) of the Ministry for Armament and War Production; member of the NSDAP.

FRIEDRICH WILHELM JANSSEN, member of Krupp Direktorium and deputy member of the Vorstand; successor to Ewald Loeser as head of the administrative and finance departments; head of the Berlin office, 1937–1943; Wehrwirtschaftsfuehrer; member of the NSDAP; sponsoring member of the SS.

KARL HEINRICH PFIRSCH, deputy member of Krupp Direktorium and Vorstand, and head of the war material and machine sales departments; head of the Berlin office, 1943–1945; Wehrwirtschaftsfuehrer; member of the NSDAP.

MAX OTTO IHN, deputy member of Krupp Direktorium and Vorstand, deputy to Ewald Loeser and Friedrich Janssen, concerned particularly with personnel and intelligence; deputy plant leader, Gusstahlfabrik, Essen; member of the NSDAP.

KARL ADOLF FERDINAND EBERHARDT, deputy member of Krupp Direktorium and Vorstand, and successor to Karl Pfirsch as head of the war material and machine sales departments; member of the NSDAP.

HEINRICH LEO KORSCHAN, deputy member of Krupp Vorstand; head of the department of steel plants and deputy head of the metallurgical department; trustee and administrator of Krupp war time enterprises in eastern and southeastern Europe; managing director of Krupp Bertha Werk, Breslau; member of the NSDAP.

FRIEDRICH VON BUELOW, an official of Krupp, concerned particularly with confidential, intelligence, and public relations matters; head of the Berlin office, 1932–1936; military and political chief of counterintelligence (Hauptabwehrbeauftragter) at Krupp, Essen, and direct representative of Krupp with Nazi officials, the Gestapo, and SS; chief of the plant police (Werkschutz), Gusstahlfabrik, Essen.

WERNER WILHELM HEINRICH LEHMANN, an official of Krupp, deputy to Max Ihn and in charge of Arbeitseinsatz "A" (labor procurement); member of the NSDAP.

HANS ALBERT GUSTAV KUPKE, an official of Krupp, head of experimental firing ranges at Essen; head of the foreign workers camps (Oberlagerfuehrer); previously an official of the army ordnance office (Heereswaffenamt); member of the NSDAP.

Reference is hereby made to appendix "A" of this indictment for a fuller statement of the positions and activities of each of the defendants.

COUNT ONE—CRIMES AGAINST PEACE

1. All of the defendants, with divers other persons, including Gustav Krupp von Bohlen und Halbach, Paul Goerens and Fritz Mueller, during a period of years preceding 8 May 1945, committed crimes against peace as defined in Article II of Control Council Law No. 10, in that they participated in the initiation of invasions of other countries and wars of aggression in violation of international laws and treaties, including but not limited to planning, preparation, initiation, and waging wars of aggression, and wars in violation of international treaties, agreements, and assurances.

2. The defendants held high positions in the political, financial, industrial, and economic life of Germany and committed crimes against peace in that they were principals in, accessories to, ordered, abetted, took a consenting part in, were connected with plans and enterprises involving, and were members of organizations and groups, including Krupp, connected with the commission of crimes against peace.

3. The invasions and wars referred to and the dates of their initiation were as follows: Austria, 12 March 1938; Czechoslovakia, 1 October 1938 and 15 March 1939; Poland, 1 September 1939; the United Kingdom and France, 3 September 1939; Denmark and Norway, 9 April 1940; Belgium, the Netherlands, and Luxembourg, 10 May 1940; Yugoslavia and Greece, 6 April 1941; the U.S.S.R., 22 June 1941; and the United States of America, 11 December 1941.

4. In these invasions and wars many millions of people were murdered, tortured, starved, enslaved, and robbed; countless numbers became diseased; millions of homes were left in ruins; tremendous industrial capacity capable of raising the standard of living of peoples all over the world was destroyed; agricultural land capable of feeding millions of people was laid in waste; and a large part of the world was left in economic and political chaos. The lives and happiness of two billion people were adversely affected as the result of these invasions and wars of aggression.

5. The origins, development, and background of the crimes which the defendants herein committed, and of the criminal plans in which they participated, may be traced through a period of over one hundred years of German militarism, and one hundred thirty-three years, embracing four generations, of Krupp armament making. In World War I, Krupp's contribution to German might included the "Big Bertha" gun which terrorized the civilian population of Paris. In World War II, Krupp, through

the defendant Alfried Krupp, following "an example set by Alfred Krupp in the War of 1870," offered Hitler the "Big Gustav" gun, which shelled Sevastopol. Upon the occasion in 1940 of the designation in Hitler's presence of Krupp as a "National Socialist Model Enterprise," (*NIK–12630, Pros. Ex. 261*)[1] the award was accepted with the words—"It (the award) is in honor of a social-political attitude, which, while having its roots in a 128-year-old tradition, has developed organically so as to fit into the new times, into the National Socialist Germany."

6. Krupp, as the principal German maker of large caliber artillery, armor plate, and other high quality armament, the largest private builder of U-boats and warships, and the second largest producer of iron and coal in Germany, contributed substantially to the ability of the Third Reich to wage its invasions and wars of aggression. When these invasions and wars were first initiated, Krupp was a gigantic vertical enterprise composed principally of coal and iron ore mines, transport units, blast furnaces, rolling mills, shipyards, machine, armament, and other manufacturing plants, the most important units and subsidiaries of which are named in appendix "B" of this indictment. In 1939 it consisted of at least 175 domestic and 60 foreign subsidiary units. Its interests centered in the Ruhr area and particularly in Essen where the seat of the enterprise was located, but its branches dotted the globe and during World War II major interests grew up throughout Europe.

7. The restrictions which the Versailles Treaty placed upon the armament of Germany were systematically circumvented and violated by Krupp. As the Krupp Vorstand, which at that time included the defendants Alfried Krupp and Loeser, said in 1938, of the post-Versailles period (*NIK–1284, Pros. Ex. 125*)[2] "Our company decided to preserve the precious experience irreplaceable for the war potential of our people. This we did as the trustee of an historical heritage * * * in order to be ready to execute armament orders when the time came." And Gustav Krupp von Bohlen said (*D–94, Pros. Ex. 124*)[3] "Even the Allied snoop commissioners were duped." In March 1941, Gustav Krupp von Bohlen wrote, "Through years of secret work, scientific and basic groundwork was laid in order to be ready again to work for the German armed forces at the appointed hour without loss of time or experience." Manufacture of tanks started in 1926. Research and experimental work was done on naval armament, including work on submarines, warships, armor plating, and fire

[1] Document reproduced in section VI B 1.
[2] Document reproduced in part in section VI B 1.
[3] Ibid.

control. Remote control of naval fire was demonstrated in 1929. Experimental work on rocket designing was started in 1930.

8. The program of the Nazi Party coincided with the aspirations of the Krupp firm to reestablish a powerful Germany, with Krupp as the armament center. The main points of that program, which were first announced in 1920, and thereafter continually and publicly reiterated so as to become matters of common knowledge, were to remove the restrictions which the peace treaties of Versailles and St. Germain imposed on the military armament and activity of Germany; to reconstitute the Wehrmacht; and to acquire, by any means deemed opportune, including war, the territories lost by Germany as the result of the World War of 1914–1918 and other territories asserted to be occupied by so-called "racial Germans" or to be required by "racial Germans" as "Lebensraum" or living space. This program proclaimed, among other things, that so-called "racial Germans" were a "master race" entitled to subjugate other peoples; that the German people should be ruled under the Fuehrerprinzip (leadership principle) ; and that war was a noble and necessary activity of Germans.

9. The name, prestige, and financial support of Krupp was used to bring the NSDAP into power over Germany and to put into effect its announced program. On 20 February 1933, immediately prior to the crucial Reichstag election of 5 March 1933, Gustav Krupp von Bohlen, together with other leading industrialists, met Hitler at Goering's Berlin house. Hitler declared his treasonable purpose to seize power by violence if the Nazis failed in this election. Among other things he stated that private enterprise cannot be maintained in the age of democracy; when the defense of the existing order is left to a majority it will irretrievably go under; it is the noblest task of a leader to find ideals that are stronger than the factors that pull the people apart; he found them in nationalism, in the denial of reconciliation between nations, in the strength and power of individual personality; if one rejects pacifism, one must offer a new idea in its place immediately; we must not forget that all the benefits of culture must be introduced more or less with an iron fist, just as once upon a time the farmers were forced to plant potatoes; we must first gain power if we want to crush the other side completely; only when one knows that one has reached the pinnacle of power, that there is no further possible upward development, shall one strike; now we stand before the last election; regardless of the outcome there will be no retreat; if the election does not decide, the decision must be brought about by other means; there are only two possibilities, either to crowd

back the opponent on the basis of the constitution, and for this purpose once more this election, or a struggle will be conducted with other weapons, which may demand greater sacrifices; the question of restoration of the Wehrmacht will not be decided at Geneva, but in Germany. At the conclusion of the speech Goering asked for money (*D–203, Pros. Ex. 187*)[1], saying that, "The sacrifice asked for would be so much easier for industry to bear if it realized that the election of 5 March will surely be the last one for the next ten years, possibly for the next hundred years." Gustav Krupp von Bohlen then expressed to Hitler the industrialists' "gratitude for having given us such a clear picture of his ideas" (*D–204, Pros. Ex. 188*)[2] and initiated the collection of over 3,000,000 RM from the assembled industrialists with a pledge of 1,000,000 RM from the Ruhr. When the Reichstag met on 24 March 1933 following the election of 5 March 1933 Hitler introduced the "Enabling Act" which turned Germany into a dictatorship. The ouster from the Reichstag of his political opponents and the aid of the Deutschnationale Volkspartei, which was heavily financed and supported by Krupp, gave him the votes needed for its enactment.

10. The NSDAP, having achieved power over the political life of the country, proceeded to extend its hold to all other phases of German life. Gustav Krupp von Bohlen undertook, as chairman of the Reich Association of German Industry, the largest association of German industrialists, to bring that association into "agreement with the political aims of the Reich Government." (*D–157, Pros. Ex. 195*) In April 1933 he submitted to Hitler the plan of that association for the reorganization of German industry according to the Fuehrerprinzip (leadership principal). The introduction of this principle into the sphere of business and industry served to promote a war economy by centralizing authority through compulsory memberships in so-called "autonomous" organizations governed by men committed to carrying out the program and aggressive aims of the Third Reich.

11. To strengthen the NSDAP Gustav Krupp von Bohlen in May 1933 organized the Adolf Hitler Spende. This was a fund collected from every circle of German industry, banking, and agriculture, and put at the disposal of Hitler, the Stahlhelm, and the NSDAP organizations. Eighty-five percent of industry contributed to it and it was the greatest private source of funds for the NSDAP. Krupp alone contributed in excess of 6,000,000 RM to it. Its leadership, originally assumed by Gustav Krupp von Bohlen, subsequently devolved upon the defendant Alfried Krupp.

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[1] Ibid.

[2] Document reproduced in section VI B 1.

12. Immediately after the Nazi seizure of power the rearmament of Germany was accelerated. On 21 May 1935, Germany formally renounced the armament clauses of the Versailles Treaty (*2288–PS, Pros. Ex. 345*). By 1939, Hitler was able to state that: "For more than 6 years I have worked for the building up of the German Wehrmacht. During this time more than 90 billions have been spent for the building up of our army. It is today the best equipped in the world and in every respect surpasses that of the year 1914."

13. To produce armaments on this vast scale the entire economic life of Germany, and particularly the armament industry, was reorganized. The chief agency through which this was accomplished was the Four Year Plan, establishment of which was announced on 8 September 1936 at the Nazi Party rally in Nuernberg. Its purpose was to make Germany ready for war in 4 years. In a memorandum to Goering, Plenipotentiary for the Four Year Plan, explaining its objectives, Hitler stated that the final solution of Germany's problem lay in the acquisition of new territories; that such acquisition was the task of "the political leadership"; that in order for "the political leadership" to exercise its responsibilities the German economy had to be mobilized for the purpose of making Germany self-sufficient in critical war materials.

14. The defendants, and other Krupp officials whose cooperation was needed for the accomplishment of the aims of the Four Year Plan, were advised as to the purposes of the plan and participated in its execution. On 17 December 1936, Goering made a speech in the Preussenhaus in Berlin to the members of the Reichsgruppe Industrie in which he made clear the intention and decision of the Third Reich to wage war. (*NI–051, Pros. Ex. 350.*) He said, among other things, "The battle which we are approaching demands a colossal measure of productive ability. No limit on the rearmament can be visualized. The only alternative in this case is victory or destruction. If we win business will be sufficiently compensated." He ended his speech, "Our whole nation is at stake. We live in a time when the final battle is in sight. We are already on the threshold of mobilization and we are already at war. All that is lacking is the actual shooting." On 17 March 1937 at a conference held under the auspices of the Four Year Plan and which was attended by high ranking government officials and representatives of the leading iron and steel firms, including Krupp, Goering emphasized that the "shortage of ores must not endanger the program of munition production or armaments in case of war." In the discussion that followed he agreed that Roechling, a leading industrialist,

had correctly stated the problem as "What is the quantity that the German ore mining industry must be prepared to supply the German nation in case of war, and in how many years must this goal be attained?" At a second meeting of that same group held 3 months later, on 16 June 1937, to discuss the progress of the program, Goering made even clearer that Germany was preparing for war and that production and distribution, including the export of iron and steel products, had to be adjusted accordingly. Elsewhere he stated that the purpose of the Four Year Plan was to create a foundation upon which preparation for war might be accelerated and the most urgent necessity was to increase iron production. Iron was to be used first to increase iron production, and then for the armed forces, for warships and tanks, for the Four Year Plan and for export for foreign exchange. The export of semifinished products was to be reduced and care was to be exercised that export did not facilitate the arming of the enemy. Goering was assured that only six percent of Germany's export of iron went to "so-called enemy countries such as England, France, Belgium, Russia, and Czechoslovakia." The iron and steel industries gave their full cooperation to this program. On 4 November 1938, at a conference in Duesseldorf of iron and steel industrialists, including the defendants Alfried Krupp and Loeser, Goering's representatives congratulated the members of the industry upon their accomplishments.

15. Krupp fully and willingly cooperated in the rearmament of Germany for foreign aggression. The Krupp firm, under the direction of the defendants, synchronized all its activities with the German Government and its plans and preparations for invasions and wars. Each of the defendants, during the period of association with Krupp, participated in its activities in support of the program of aggression and continued the assistance and aid to the Nazi Party initiated by Gustav Krupp von Bohlen as leader of Krupp in 1933. The assistance Krupp rendered under the direction of the defendants, through its research, foreign organizations, manufacturers, and exports, was indispensable to the preparation, initiation, and waging of Germany's aggressive wars.

16. Krupp laboratories, furnaces, and mines were utilized in the attempt to make Germany self-sufficient and invincible. In cooperation with the Four Year Plan, research was conducted in coal, chemistry, and metallurgy, under the direction of the defendant Houdremont, for the purpose of reducing Germany's dependence upon outside sources by the fullest utilization of German ores and other raw materials, even those of poor quality. Research in armament production, started prior to the Nazi

accession to power, was continued on a far vaster scale. Personnel was doubled and elaborate tests were instituted. German intervention in Spain in aid of Franco was used as an opportunity to test in actual combat the weapons developed by Krupp. The results of research carried on by Krupp were utilized by the entire German armament industry. Krupp gave other German armament firms the necessary blueprints and information needed to produce vital armaments, including siege guns, tank guns and turrets, mortars, and caissons for field guns. The defendant Mueller, working in close cooperation with German military authorities, fully utilized Krupp research and personnel to design the weapons needed to meet the special conditions to be anticipated in the invasion of particular countries.

17. All the productive facilities of the Krupp firm were coordinated with the program for rearmament. Direct production of armaments on a vast scale started in 1933 and continued in increasing volume until the last years of the war. Strict secrecy measures were instituted almost immediately upon the start of the rearmament program to conceal its scope. The Krupp firm actively cooperated in the disguised methods of financing used to conceal Germany's rearmament program. It was one of the founders of the Metallurgische Forschungsgesellschaft, m.b.H. (MEFO), through which Germany concealed the expenditure of 12,000,000,000 RM for rearmament purposes between 1935 and 1938. Krupp was one of the principal users of the "MEFO" bills until their discontinuance in 1938, when it was no longer deemed necessary to conceal the vast progress of German rearmament. The Krupp firm was one of the chief sources of supply of offensive weapons, such as heavy tanks, artillery, and submarines, needed for the waging of aggressive war. The "Gustav" gun which shelled Sevastopol, the submarines that formed the "wolf packs" which harried Atlantic shipping, and the tanks which overran most of Europe and North Africa for Germany were Krupp products. In addition to finished armament products the facilities of the Krupp firm were used to manufacture intermediate products for sale to other armament manufacturers. Production throughout Krupp was regulated strictly in accordance with the requirements of the German war machine.

18. The products of the Krupp shipyards and plants were indispensable to the rebuilding of the German Navy. By 1939 the Germania Yards were constructing one submarine a month. In addition to this they were building a battleship, an aircraft carrier, cruisers, and other vessels for the German Navy. The "Bismarck," "Tirpitz," "Admiral Graf Spee," "Admiral Scheer,"

and "Deutschland" were armed by Krupp. In building and arming the German Navy, Krupp disregarded the limitations imposed by international treaties upon the armament and size of German vessels, and participated in concealing the breach of those treaties.

19. To meet the demands of the German rearmament program Krupp altered and expanded its production facilities. A new synthetic gasoline plant, the Kruppsche Treibstoffwerk G.m.b.H., was established at a cost of 20,000,000 RM, as part of the program to make Germany self-sufficient in the event of war. The shipbuilding facilities of the Germania Yards were enlarged in accordance with the shipbuilding program of the German Navy under which it was planned to build three battleships a year. The other production facilities of Krupp were similarly enlarged. Production of iron and steel by the Gusstahlfabrik and the Friedrich-Alfred-Huette increased from 1,500,000 tons in 1932 to 4,000,000 tons in 1938. Production, in Reichsmarks, in the business year ending 1942 was about five and one half times that of the pre-Hitler depression year ending in 1932. The number of employees increased from 35,000 in 1932 to 112,000 in 1939. Part of this expansion was financed directly by the German Government and large German banks and part by Krupp, and resulted in a production in excess of and different from the needs of a peacetime economy.

20. The exports and foreign affiliates and resources of Krupp were fully utilized by the defendants to assist the Third Reich in the economic penetration of foreign countries for the purpose and with the result of weakening the economies and military defensive strength of foreign countries and strengthening the economies and offensive military strength of the German Reich and its allies.

21. Krupp's foreign patents and agreements abroad were used to restrict foreign production, keep foreign prices high, provide Krupp with technical information and general economic intelligence and furnish foreign exchange to Krupp through royalty payments. These patents and agreements affected particularly stainless steel and tungsten carbide, the latter of which is of great importance in the production of machine tools. Under the terms of the licenses given in the United States for the use of certain steel formulas, Krupp required that it be supplied with the production figures of the American licensees. After the outbreak of war in 1939, the Krupp subsidiary in the United States, the Nirosta Company, continued to demand these rights, even in respect to royalty-free production by American plants on United States Government contracts. To facilitate use of its

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foreign patents and licenses in the interest of Germany, Krupp cloaked its interests in foreign enterprises.

22. Krupp, in these and other ways, carried on espionage activities on behalf of the German Government. Its business connections abroad enabled it to secure information concerning armament development and progress outside Germany. This information was turned over to competent military agencies for use by them in evaluating the military strength of the countries in question.

23. The Krupp connections abroad were used for the dissemination of Nazi propaganda. Personal letters setting out the Nazi viewpoint, booklets sympathetic to the NSDAP, and similar material were sent out by Krupp to the people with whom it did business abroad. This was done in close cooperation with the interested government bureaus charged with distributing propaganda and in such fashion as to conceal its official origin. The Third Reich was thus enabled to increase the effectiveness of its propaganda devices. The defendant Ihn supervised much of this Krupp activity, which was part of German preparation for waging aggressive war.

24. Krupp export business, like its research, production, and foreign affiliations, was likewise coordinated with the Nazi armament program. Exports were controlled in the interest of securing foreign exchange and to advance the military objectives of the Third Reich. The foreign exchange secured through such sales was used for the stock-piling of materials necessary for the waging of aggressive war. Exports were regulated so as to build up the military position of friendly countries, while keeping those deemed "enemy countries" weak or dependent upon Germany. War materials were either entirely cut off from particular countries upon their selection as victims of German aggression, or doled out in the minimum quantities necessary to allay suspicion. So, for example, on 17 May 1939 one week before the conference at the Reich Chancellery in Berlin at which Hitler announced to a group of leaders of the Third Reich his intention to attack Poland, Krupp was advised to cease export of war materials to Poland. An inquiry from Holland regarding antiaircraft guns dated 16 October 1939, nine days after the German Army had been ordered to prepare for the immediate invasion of Dutch and Belgian territory, was referred to the defendants Mueller and Eberhardt, among others, and was marked by Krupp, "Not to be answered." Two months before the actual invasion of Holland Krupp advised the Foreign Ministry not to awaken the suspicion of the Netherlands Government by withholding visas and preventing inspection of guns on order which

Krupp had no intention of delivering. While Krupp was denying material to the intended victims of German aggression it was supplying European satellite governments and Japan with equipment for the manufacture of armaments with approval of the German High Command.

25. The coordination of all phases of activity of the Krupp firm with the program of the Nazi government was accomplished through the close liaison maintained at all times between the defendants and the government. From the start of the rearmament program, Krupp officials were in constant communication with officials of the military and economic branches of the government. To facilitate coordination of the work and activities of the Krupp firm with the military offices of the Reich, the "R-Office," or "Ruestungs-Vertretung," was established by Krupp in 1936 in Berlin and operated under special security measures. This office included among its functions and duties the coordination and supervision of military contracts, financing of military orders, military and industrial espionage in foreign countries, and the coordination of confidential relationships of the defendants and Krupp with the military and military-economic offices.

26. The defendant Mueller and Houdremont collaborated closely with the military procurement agencies in the design of weapons and scheduling of production. Upon the establishment of the office of the Reich Minister for Armament and Munitions, Mueller's position as military advisor was officially recognized by placing him at the head of the Armament Committee. When this office was succeeded by the Ministry for Armament and War Production he continued to hold a leading position as head of one of the "rings" and of the Weapons Division Committee. The defendant Alfried Krupp was on the Armament Advisory Commission (Ruestungsrat) of this Ministry; the defendant Houdremont was in charge of its Special Committee for Metal Substitutes. Krupp personnel were to be found on many of the other main committees and rings. The value of Krupp personnel to Germany's rearmament was recognized by the designation of "Wehrwirtschaftsfuehrer" awarded to the defendants Alfried Krupp, Loeser, Houdremont, Mueller, Janssen, and Pfirsch.

27. The high positions held by the defendants in the political, financial, industrial, and economic life of Germany facilitated the coordination between the activities of the Krupp firm and the German program for rearmament. They held key positions in the economic organizations and groups which, acting in cooperation with the German High Command, prepared Germany's industrial mobilization plan. The defendant Alfried Krupp was

a member of the Beirat of the Wirtschaftsgruppe Eisenschaffende Industrie (herein called "WGE") ; and the defendant Loeser was a member of the Kleiner Kreis, which exercised great influence in the WGE and in the iron, steel, and coal industries generally. The defendants Alfried Krupp, Loeser, Ihn, and von Buelow were also active in the District Group Northwest, the most important suborganization of the WGE. The Krupp firm was equally well represented in the RVE (Reichsvereinigung Eisen), an official organization for the governance of the iron and steel industry in Germany's war economy, organized in May 1942; the RVK (Reichsvereinigung Kohle), organized in April 1941, which occupied a similar position in the coal industry; and the Rheinisch-Westfaelisches Kohlensyndikat (herein called "RWKS"), the principal suborganization of the RVK. The defendant Alfried Krupp was deputy chairman of the RVE; and the defendants Mueller and Ihn were members. The defendant Alfried Krupp was on the Praesidium of the RVK. The defendants likewise played a leading role in the AGK, the Armament Export Association of the Reichsgruppe Industrie. No weapons could be exported from Germany without the permission of the AGK, and the defendants Alfried Krupp and Pfirsch were members of its Beirat [advisory board].

28. Each step taken by the Nazi government after its accession to power made clearer that it was on the road to aggressive war. After the announcement of the Four Year Plan in 1936 the inevitability of war as the result of Hitler's aggressive plans and attentions grew increasingly manifest and the dictatorship of the Third Reich more brutal and tyrannical. As succeeding events indicated more and more clearly the warlike intentions of the German Government and the imminence of aggressive war, a few prominent supporters of Hitler parted company with the leaders of the Third Reich. In sharp contrast with these, however, Krupp and the defendants did not terminate, but, on the contrary, intensified their close collaboration with the political and military leaders of the Third Reich. Just prior to the actual launching of Germany's aggressive wars, Krupp's war production reached new heights. In conjunction with the Nazi government and as part of the MOB (Mobilization) plan it had already scheduled its operations so as to assure their continuance without interruption in the event of war. It took steps to protect its financial position abroad against the anticipated outbreak of war, including transferring its foreign assets to other companies to cloak their real ownership and preparing to set off foreign debts against foreign assets. With the actual start of war the defendants participated even more closely in the government's war

plans and activities, and Krupp officials became part of the official government machinery.

29. During the entire period of actual conflict Krupp was one of the principal sources of supply for German armed forces and one of the chief beneficiaries of German invasions and wars. To assist the Third Reich and as an integral part of the waging of its aggressive wars and to secure the aggrandizement of Krupp the defendants plundered and exploited private property in and public property and resources of occupied countries and enslaved their citizens. These acts are more fully set forth in counts two and three of this indictment, and the allegations made therein are hereby incorporated in this count. Plants in Austria, France, and Belgium, chromium ore deposits in Yugoslavia, nickel mines in Greece, naval and shipbuilding facilities in Holland, and iron and steel plants and foundries in the Soviet Union were exploited by the defendants in furtherance of these wars of aggression. Citizens of these and other countries were compelled to work for Krupp in the manufacture of armaments and munitions. This exploitation of the human and material resources of the occupied countries in violation of the laws and customs of war enabled Germany to wage and prolong the criminal invasions and wars in which it was engaged.

30. Throughout the entire period of preparation and planning for Germany's criminal invasions and wars, and during the period of the actual initiation and waging of such wars, the defendants supported and approved the aims and programs of the Third Reich and of the NSDAP and placed at their service the productive resources of Krupp, the prestige of the firm, its owners and executives, and its financial power.

a. The defendant Alfried Krupp, as leader of the Krupp firm, pledged it to continue the Krupp tradition of armament and the support of the Fuehrer initiated by his father. In a proclamation to the workers of Krupp in 1943, he boasted of the glorious history of the Krupp weapon forges; pointed with pride to the workers as active adherents of Nazi ideology; and promised revenge against the Allies.

b. All of the defendants, except von Buelow and Loeser, were members of the NSDAP and pledged acceptance of Nazi doctrine and aims; Loeser, as early as 1933, had joined the Nationalsozialistisches Flieger Korps; and von Buelow was a Gestapo confidant. The defendants assisted in the spread of NSDAP doctrines and gave financial support to the Party through the Krupp firm and as individuals. Two plants of the Krupp firm alone the Gusstahlfabrik and the Friedrich-Alfred-Huette contributed to Nazi organizations between 30 January 1933, and 1 September

1939 over 4,759,420.88 RM, and between 1 September 1939 and May 1945 over 7,606,967.61 RM, a total of over 12,366,388.49 RM.

c. The Krupp firm supported the Four Year Plan for making Germany self-sufficient and the other economic measures taken to mobilize Germany. Krupp worked harmoniously with the state-owned Hermann Goering Works, which was engaged in the exploitation of the low-grade ores found in Germany, thereby diminishing its dependence on external sources of supply. The defendant Houdremont acted as consultant in respect to that project in preparation for war.

d. Close personal contacts were fostered between the leaders of Krupp and the Nazi hierarchy. From 1934, Hitler was a frequent visitor at the Essen plants, and other visitors at the Gusstahlfabrik included—Mussolini, special Japanese envoys, and Goering, Hess, Goebbels, Himmler, von Ribbentrop, Bormann, von Neurath, von Blomberg, von Fritsch, Keitel, Raeder, von Mackensen, Todt, Speer, Funk, Ley and Sauckel. Gustav Krupp von Bohlen and the defendants Alfried Krupp and Mueller, among others, on numerous occasions visited, reported to, and made plans with Hitler in Essen, Berlin, Berchtesgaden, and elsewhere.

31. The participation and assistance of Krupp and the defendants in the plans and enterprises of the NSDAP and of the German Reich was profitable and well rewarded.

a. The family enterprise was vastly enriched by Krupp's zeal under the Nazi program of armament and aggressive war. The net profit of the firm, after taxes, gifts, and reserves, rose steadily as armament accelerated; for the year ending 30 September 1935, it was 57,216,392 RM; for the year ending 30 September 1937—97,071,632 RM; for the year ending 30 September 1940—111,555,216 RM. The book value of the Krupp firm mounted from 170,592,712 RM on 1 October 1933, to 513,824,717 RM on 1 October 1943. The enhanced value reflects the firm's profits on the armament of Germany and the results of its looting and spoliation of the resources of the occupied countries in the wake of the German Army.

b. On 12 November 1943, in recognition of the services of the Krupp family and firm to the war aims of the Third Reich, Hitler issued a special decree, the Lex Krupp (*1387–PS, Pros. Ex. 475.*)* which declared: "The enterprise of Fried. Krupp, a family enterprise for 132 years, deserves the highest recognition for its incomparable efforts to boost the military potential of Germany. Therefore, it is my wish that the enterprise be preserved as family property * * *." The defendant Alfried Krupp, with

* Document reproduced below in section VI B 3.

the approval of Hitler, was thereupon designated by Bertha Krupp von Bohlen, former owner, as owner and leader of the family enterprise.

32. The acts and conduct of the defendants set forth in this count were committed unlawfully, knowingly and wilfully and constitute violations of international laws, treaties, agreements, and assurances, and of Article II of Control Council Law No. 10.

COUNT TWO—PLUNDER AND SPOLIATION

33. All of the defendants except Lehmann and Kupke, with divers other persons, during the period from March 1938 to May 1945 committed war crimes and crimes against humanity as defined in Article II of Control Council Law No. 10, in that they participated in the plunder of public and private property, exploitation, spoliation, devastation, and other offenses against property and the civilian economies of countries and territories which came under the belligerent occupation of Germany in the course of its invasions and wars, resulting in privation and suffering to millions of the inhabitants.

34. The defendants committed war crimes and crimes against humanity, as set forth in paragraph 33, in that they were principals in, accessories to, ordered, abetted, took a consenting part in, were connected with plans and enterprises involving, and were members of organizations and groups, including Krupp, which were connected with the commission of war crimes and crimes against humanity.

35. In consequence of a deliberate design and policy, the territories occupied by Germany in the course of its aggressive acts and its aggressive wars were exploited in a ruthless way far beyond the needs of the army of occupation and in disregard of the need of the local economy. The requisitions and other demands made on the economies of the occupied countries were out of all proportion to their resources and inflicted severe suffering upon their civilian inhabitants. Agricultural products, raw materials useful to German factories, machine tools, transportation equipment, other finished products, foreign securities, holdings of foreign exchange, and other property were requisitioned and sent to Germany. Patent rights were seized. Property rights of Jews, Slavs, and of political opponents of the Nazi regime were special targets of the despoilers. The management and operation of, and the title to industrial, mining, commercial, and other enterprises were frequently acquired or assumed by, or awarded to favored German officials and firms. Production for the local

economy was drastically curtailed, and the production of industries and mines was geared to support the German war machine. In planning and organizing the plunder of and offenses against property in occupied territories and countries, the means adopted varied from complete dispossession and outright confiscation which were cloaked by the enactment of various sequestration decrees, to general control through blanket enactments and negotiations under pressure with the owners of such property for its acquisition. This latter technique was used particularly in the West. At times a pretense was made of paying for the property seized. This pretense merely disguised the fact that the goods, including raw materials, machinery, and equipment sent to Germany from, or employed for German benefit in, these occupied countries were paid for by the occupied countries themselves by various devices, including excessive occupation charges, forced loans in return for a credit balance in an alleged clearing account and currency manipulation. The means adopted were intended to and did carry into effect the plans of the Third Reich to strengthen Germany in waging and in preparing and initiating further aggressive wars, to insure the subservience to Germany of the economies of the conquered countries, and to secure German economic domination of the Continent of Europe. The German occupation policy in Poland was clearly stated in a directive by Goering on 19 October 1939:

> "On the other hand, there must be removed from the territories of the Government General all raw materials, scrap materials, machines, etc., which are of use for the German war economy. Enterprises which are not absolutely necessary for the meager maintenance of the bare existence of the population must be transferred to Germany, unless such transfer would require an unreasonably long period of time, and would make it more practicable to exploit those enterprises by giving them German orders, to be executed at their present location."

Later in a speech made on 6 August 1942 to the various German authorities in charge of Eastern Occupied Territories, Goering said:

> "God knows, you are not sent out there to work for the welfare of the people in your charge, but to get the utmost out of them, so that the German people can live. That is what I expect of your exertions. This everlasting concern about foreign people must cease now, once, and for all. I have here before me reports on what you are expected to deliver. It is nothing at all, when I consider your territories. It makes no difference to me in this connection if you say that your people will starve."

36. The defendants participated extensively in the formulation and execution of the foregoing plans, policies, and acts of spoliation and plunder, by seeking and securing possession through duress, in derogation of the rights of the owners, of valuable properties in the territories occupied by Germany for themselves, for Krupp and for other enterprises owned, controlled, and influenced by them in the interest of the German war economy, without relation to the needs of the army of occupation and out of all proportion to the resources of the occupied territories or the welfare and needs of its inhabitants; by abuse, destruction, and removal of such property; by taking possession of machinery, equipment, raw materials, and other property known by them to have been taken by themselves and by others from occupied territories; by their enterprises, and in official and governmental positions; and through memberships, representation, control and influence in financial, industrial, and economic organizations and groups which were connected with the commission of war crimes and crimes against humanity.

37. The defendants exercised pervasive influence and authority in the iron, steel, and coal industries and exercised important functions in respect to the spoliation of occupied territories through and by means of their memberships, representation, control, and influence in various economic organizations including: RVE, RVK, Kleiner Kreis, and others. The influence and control exerted by the defendants over policies and actions of these organizations and groups were further extended through the positions and activities of other officials of Krupp companies. The defendant Alfried Krupp was especially influential and active in these organizations and groups; and he traveled in the occupied countries to organize their spoliation and plunder. The Kleiner Kreis, of which the defendant Loeser was a member representing Krupp, upon the downfall of France demanded so insistently immediate action granting permanent titles in seized property to favored German industrialists that the Reich Minister of Economics Funk was forced to ask the members to curb their lust for property.

38. Throughout occupied Europe, Krupp was heavily engaged in spoliation and plundering activities. The Krupp legal department participated in spoliation deals and negotiations and attempted to give them the color of lawfulness. Industrial property, machinery, raw material, patent rights, and other property rights and human labor were the targets of Krupp's economic plans and activities to encourage, assist, and take advantage of German criminal invasions and wars. Through the defendants and their representatives, Krupp acquired, and benefited from,

numerous immovable properties in occupied territories, employing devices including: seizure, purchases, and leases influenced by force, "trusteeships" (Treuhandschaften), and "sponsorships" (Patenschaften). Krupp acquired and benefited similarly from acquisition of movable property seized in the occupied countries for use there or in Germany in the interest of the German war effort. The particulars in paragraphs 39–44, inclusive are illustrative.

39. *France*—Even prior to the war the German Reich Government had invited German industrialists to submit an account of all losses of properties suffered in consequence of the defeat in the First World War and the Treaty of Versailles. Krupp had suffered such losses, particularly in Lorraine, although money compensation had been paid by the German Republic. Following the German occupation, German industries, among them Krupp, put in claims to booty in France. The defendant Janssen, then the principal Krupp representative in Berlin, was instructed from Essen to make Krupp claims known at the Reich Ministry of Economics. Krupp sent groups of technical experts into the occupied zone in France and obtained reports concerning French enterprises which Krupp might take over advantageously. Krupp established the subsidiary firm Krupp S.A. in Paris, to amalgamate all Krupp enterprises in France. Krupp unlawfully obtained control through trusteeships and so-called "sponsorships" (Patenschaften) of numerous French enterprises; acquired rights and interest in mines, including the wolfram ore mine "Montbelleux"; founded jointly with other German concerns the Erzgesellschaft, for joint exploitation of French ore deposits, both colonial and European; threatened the French Custodian of Jewish Property and thereby obtained the privilege of exploiting the Austin factory at Liancourt; took over the "ELMAG" plant in Alsace; participated with other industrial concerns and the Hermann Goering Works in the seizure and exploitation of Lorraine coke ovens, gas, and other property; participated in the dismantling of French factories and was a beneficiary of the looting of French raw materials, machinery, automobiles, urban real estate and other property, goods, and materials; and at a meeting in or near Strasbourg in the summer of 1944 participated in organizing last-minute plunder and spoliation of French property in anticipation of the German evacuation of France and of the defeat of Germany in the war. For example:

a. By agreement with the Reich's Organization Todt, Krupp took over, without notifying the concessionaire and the owner until a later date, the exploitation of a wolfram ore mine at Montbelleux, near Fougères, France. Upon the withdrawal of

German forces from the area the mine installations and the warehouse were blasted and destroyed by and with the participation of Krupp representatives and engineers.

b. Krupp entered into a so-called "agreement" (Betriebsueberlassung) with the German commissar for a lease of the plants, including machinery, of the Elsaessische Maschinenfabrik A. G., Mulhouse, Alsace (ELMAG) and founded a new company, the Elsaessische Maschinenfabrik G.m.b.H. When the plant was evacuated in September 1944, Krupp dismantled the machinery and shipped it to Germany. Krupp withdrew current funds and working capital belonging to the French company and did not even leave enough to pay the workers and employees.

c. In April 1941, Krupp's engineer, Eisfeld from Rheinhausen, accompanied by German workers and military officers, commenced dismantling a valuable sheet metal bending machine and a valuable sheet metal bending press at the Alsthom plant at Belfort, France. Both items were shipped to a Krupp plant in Germany.

40. *Belgium and the Netherlands*—Krupp-Brussels S.A. was founded with the purpose of obtaining, and did obtain, control of Belgian plants acquired unlawfully, including the American owned Lot Factory of the S.A. Gregg. Krupp participated in the so-called Ruhrhilfe Aktion, a project involving the dismantling of Dutch factories and machinery for the benefit of Ruhr plants, including those of Krupp. Krupp participated in the earlier Lager Aktion, concerned chiefly with the requisitioning of new iron and steel materials from Dutch owners. Krupp agents selected the material desired by Krupp and informed the RVE, which ordered the requisition. Krupp companies carried out the transport of such materials directly to Krupp plants in Germany and to plants of the Vereinigte Stahlwerke, for which Krupp acted as agent in this looting.

41. *Austria*—Prior to the Anschluss there had been in Austria well founded fears of German domination and of the acquisition by Germans of Austrian industrial plants. For many years Krupp had attempted unsuccessfully to acquire the Berndorfer Metallwarenfabrik Arthur Krupp, A.G. Negotiations were conducted by Krupp with Goering, Hitler Plenipotentiary for the Anschluss. The German appointed trustee of the Austrian Creditanstalt was directed by Goering to sell Berndorf only to Krupp. Backed by Goering's favor and German might, Krupp, and the defendant Loeser in particular, conducted negotiations concerning the price and the Berndorf properties to be acquired. The acquisition of Berndorf was, in the words of Krupp's official historian, a "pleasant consequence" of the annexation of Austria.

42. *Yugoslavia*—Shortly after the German Army occupied Yugoslavia, Krupp attempted to obtain control of the Chrom-Asseo, A.G., and its Jeserina chrome mines by obtaining a majority of the shares which had been seized from a family considered "non-Aryan." However, representatives of an Italian company had previously taken the shares to Rome and Krupp was required by the German Foreign Office to accept a minority interest in partnership with the Italian plunderers. Krupp subsequently acquired other shares, including shares seized by the Reich Commissar for Enemy and Jewish Property. In the negotiations, conducted by Krupp's representatives Ballas and Kyllmann, Krupp also succeeded in obtaining a share of the chrome ore.

43. *Greece*—Prior to the war Krupp attempted to obtain control of the nickel ore mine "Lokris," which was the property of a Greek citizen. The Société Anonyme Internationale des Mines et Commerce de Minérals, Athens, controlled by a Greek, Charilaos, held the mining concession. Krupp's offers for shares of the mine and the mining concession company were low and were rejected. When the German Army invaded Greece to assist their Italian allies in subduing the Greek nation, Charilaos feared the seizure or confiscation of his shares and of his mine by Italians or Germans, both of whom had indicated a dangerous interest in the mine. Taking advantage of such fears Krupp acquired 44,895 shares under duress from Charilaos. Krupp subsequently acquired under similar circumstances 7,000 shares from the president of the S.A. Internationale, a Greek citizen, which gave Krupp a controlling interest.

44. *Soviet Union*—Krupp took full advantage of the German program, adopted even before the attack on the U.S.S.R., for the fullest and most ruthless exploitation of all Soviet economic resources. The restraints of the Hague Convention were not recognized by Germany as applying to the Soviet territory. All Soviet property was declared to be "property marshalled for the national economy" (Wirtschafts-Sondervermoegen) and representatives of the German civil and military occupation authorities were declared trustees of this property to which Germany purportedly took title. Special governmental or semigovernmental companies Monopolgesellschaften or Ostgesellschaften were created by the Plenipotentiary of the Four Year Plan, Goering, as trustees for the control of certain sectors of Soviet economy. One of these Ostgesellschaften, the Berg- und Huettenwerksgesellschaft Ost m.b.H., herein referred to as the BHO, was the trustee for the iron, steel, and mining industry and the main spoliation agency in its field of operations. Krupp obtained

from this organization the priority for exploitation of the Ukraine and the trusteeship of numerous valuable enterprises, including two plants in Mariupol; the Ilyitch and Azov "A" plants, in Kramatorskaya; and the Molotov Works in Dnepropetrovsk. In 1943, Krupp undertook the complete dismantling of the electrosteel mill at Mariupol for shipment to the Krupp Bertha Works near Breslau. Under special provisions of its agreement with the BHO, Krupp obtained an option, to be exercised after the war, on the property of which it was trustee. Pursuant to the plans and programs of the BHO, RVK, and RVE, Krupp participated in numerous plans and programs for exploiting mining and smelting properties in Russia, and for stripping the occupied territory of stocks, raw materials, scrap iron, and other property.

45. The acts and conduct of the defendants set forth in this count were committed unlawfully, willfully, and knowingly, and constitute violations of the laws and customs of war, of international treaties and conventions, including Articles 46–56 inclusive, of the Hague Regulations of 1907, of the general principles of criminal law as derived from the criminal laws of all civilized nations, of the internal penal laws of the countries in which such crimes were committed, and of Article II of Control Council Law No. 10.

COUNT THREE—DEPORTATION, EXPLOITATION, AND ABUSE OF SLAVE LABOR

46. All of the defendants, with divers other persons, during the period from September 1939 to May 1945 committed war crimes and crimes against humanity as defined in Article II of Control Council Law No. 10, in that they participated in atrocities and offenses against persons, including murder, extermination, enslavement, deportation, imprisonment, torture, abuse, and other inhumane acts committed against civilian populations of countries and territories under the belligerent occupation of, or otherwise controlled by, the Third Reich; enslavement and deportation of foreign and German nationals, including concentration camp inmates; employment of prisoners of war in war operations, work having a direct relation to war operations, including the manufacture and transport of armament and munitions, and in dangerous occupations; persecution on political, racial, and religious grounds; and exploitation and ill treatment of all categories of persons referred to above.

47. The defendants committed war crimes and crimes against humanity, as set forth in paragraph 46, in that they were prin-

cipals in, accessories to, ordered, abetted, took a consenting part in, were connected with plans and enterprises involving, and were members of organizations and groups, including Krupp, which were connected with the commission of war crimes and crimes against humanity.

48. The acts, conduct, plans, and enterprises charged in this count were carried out as a part of the slave labor plan and program of the Third Reich. Millions of persons, including women and children, were subjected to forced labor under cruel and inhumane conditions which resulted in widespread suffering and many deaths. At least 5,000,000 workers were deported to Germany. The conscription of labor was accomplished in many cases by drastic and violent methods. Workers destined for the Reich were sent under guard to Germany, often packed in trains without adequate heat, food, clothing, or sanitary facilities. Other inhabitants of occupied countries were conscripted and compelled to work in their own countries to assist the German war economy. The needs of the occupied countries were completely disregarded in the execution of the said plans and enterprises, as were the family honor and rights of the civilian populations involved. Prisoners of war were assigned to work directly related to war operations including work in armament factories. Millions of prisoners were herded into concentration camps, and then driven to death in factories and mines or into more expeditious death in gas chambers. The treatment of slave laborers and prisoners of war was based on the principle that they should be fed, sheltered, and treated in such a way as to exploit them to the greatest possible extent at the lowest possible expenditure.

49. Through and by means of their offices, memberships, representation, control, and influence in the RVE, RVK, and other organizations and groups, the defendants victimized and committed offenses against hundreds of thousands of civilians and prisoners of war in the iron, steel, and the mining industries alone, in Germany and the occupied territories. These organizations and groups were given wide powers by the government, exercised pervasive influence and authority in these industries, and performed important functions in respect to the procurement, enslavement, deportation, allocation, and treatment of foreign civilians, prisoners of war, and concentration-camp inmates. Members of the governing bodies of these organizations and groups, including the defendants Alfried Krupp and Houdremont, met and consulted with, and advised the Central Planning Board, which was the top wartime coordinating body in the Third Reich on matters of industry and manpower. The influence and control exerted by the defendants over policies and actions of these or-

ganizations and groups were further extended through the positions and activities of other officials and subordinates of Krupp.

50. The defendants sought out, requested, and recruited foreign workers, prisoners of war, and concentration-camp inmates from the Third Reich and satellite government ministries and agencies, from the German military forces, the SS, the official economic organizations, and elsewhere. Krupp maintained offices in occupied countries and recruited foreign civilians who were forced, terrorized, and misled into employment with Krupp. The defendant Lehmann, for example, recruited foreign workers in the course of numerous trips to the Netherlands, Belgium, France, Poland, and Italy. In 1942 the Krupp ignitor workshop in Essen complained bitterly that foreign workers were made available only 2 or 3 months after being requisitioned; and the defendants Mueller, Eberhardt, and Korschan participated in the attempt to remedy this complaint. The defendants advised, influenced, and assisted governmental ministries and agencies, the military, the Gestapo, the SS, the official economic organizations, and others on matters pertaining to the recruiting, allocation, and utilization of slave labor. Under its slave labor program, Krupp employed in Krupp enterprises over 55,000 foreign workers, over 18,000 prisoners of war and over 5,000 concentration camp inmates, not including replacements, within a period of about 5 years, and not including workers in Krupp plants in the occupied countries.

51. In the course of recruitment, deportation to slave labor, allocation and utilization of slave labor by the defendants, and in the industrial plants, mines, and enterprises of Krupp, foreign civilian workers, prisoners of war, and concentration camp inmates were exploited under inhumane conditions and subjected to atrocities, ill-treatment, and offenses against their persons in innumerable ways. The particulars in paragraphs 52–62 inclusive are illustrative.

52. Repressive measures were used to force workers to enter into and remain in involuntary servitude. Armed guards, barbed wire enclosures, and other measures were utilized to keep workers from association with the German population and from escaping; and the few who did escape were reported to, and dealt with by, Krupp's plant police and the Gestapo. When hordes of starving, ragged prisoners of war and foreign workers were crammed into Essen in 1942 the defendants Ihn and the personnel department of the Gusstahlfabrik issued a circular reminding German civilians that, "all prisoners of war—even the French ones—are nationals of enemy states. * * * Civilian Russian workers are to be treated the same as prisoners of war. Any kind of sym-

pathy is false sympathy which the courts will not recognize as an excuse."

In a circular in 1943 the defendant Ihn notified all plants that certain categories of so-called voluntary workers, i. e., eastern workers (Ostarbeiter), Poles, Netherlanders, Belgians, and Frenchmen, after the normal expiration of their contract period, were subject to compulsory extension thereof; with the distinction in regard to Netherlanders, Belgians, and Frenchmen that the attempt was first to be made to induce them to a voluntary extension of the contract. The circular continued: "In case they are not ready to do it on a voluntary basis, they will be committed to service by the labor office."

53. Penalties, torture, and abuse, including cruel beatings, were often inflicted by persons under the supervision and control of the defendants, and sometimes by means of special torture equipment ordered and manufactured by Krupp for that purpose; and Krupp authorized its plant police to mete out punishments. Various crimes of violence, committed by Krupp employees against the persons of foreign workers, prisoners of war, and concentration camp inmates, took place at Essen, including murders, shootings, and brutal beatings. The defendant von Buelow encouraged brutality by the expression of approval of a recommendation that a guard be publicly commended for killing a Russian prisoner of war for attempting to pick up bread while clearing rubble of the Krupp bakery in Essen. Krupp sent "unruly" foreign workers to a special disciplinary camp; and through the defendant von Buelow's deputy Krupp actively encouraged harsh treatment of foreigners there so that conditions in the camp should not compare favorably with conditions in Krupp plants. In one camp eastern women workers were awakened by pouring cold water on them. Kickings and beatings by foremen were common. Krupp officials distributed steel switches for disciplinary purposes. A fantastic method of torture employed at Krupp, Essen, was the use of an iron cupboard into which slave workers were crammed in a crouching position and left for periods of hours up to several days. A refinement of torture was to pour water during winter weather onto the victims through air holes in the top of the cupboard.

54. Persecution on political, racial, and religious grounds was practiced on workers brought from occupied countries and especially on concentration camp inmates, eastern workers, and Russian prisoners of war. Circulars of the Krupp Gusstahlfabrik gave instructions that more severe punishment for the same "offenses" be inflicted upon Polish, Czechoslovakian, and eastern workers than on others. For a period of years, smaller amounts

of food were issued for the same work to Poles than to German workers, and the same policy was instituted in the case of other eastern workers. The systematic discrimination against the Russian prisoners of war and the Jewish concentration camp inmates in the distribution of food at the Krupp Bertha Works resulted in actual fighting between these two groups for spoiled food which the foreign civilian workers had rejected as unfit for human consumption.

55. The labor of foreign women and children was exploited in war production and at other tasks. A Krupp official reported in 1942 to the defendants Eberhardt and Ihn and to others concerning the manufacture of antitank gun barrels and the latest assignment of 600 Russians consisting of 450 women and 150 juveniles 14 years of age. Objection was made by a production official to this assignment on the sole ground of the unskilled character of the laborers. During a period of about 3 months in 1944 the Krupp Werkschutz [plant police] at Essen reported to the firm and the Gestapo the escapes of at least six foreign juveniles under 17 years of age. Krupp employed 520 Hungarian Jewesses from the Buchenwald concentration camp and used them in Essen plants and construction work at heavy labor.

56. Children were separated from parents as a part of the policy to require the parents to labor and for other purposes, and many children of foreign workers died of neglect and ill-treatment by Krupp officials, doctors, and nurses. In a 4-month period at the end of 1943 and early in 1944, in a group of approximately 130 children at a camp maintained by Krupp near Essen for the children of foreign workers, approximately one-third of the children died. About one-half of the deaths were due to causes denominated on the death certificates as general weakness.

57. Foreign workers, prisoners of war, and concentration camp inmates were subjected to work which was excessive according to ordinary and customary hours of exertion and the capacities of the individuals, affected as they were by insufficient food, clothing, rest, medical care, and otherwise. Krupp's chief physician reported to the defendant Ihn and others that the nutrition of eastern workers was inadequate, and that plant leaders often needed two Russians for work otherwise performed by one worker of normal strength. Moreover, foreign workers and prisoners of war frequently were entirely deprived of food during a working day of 12 hours.

58. The denial of food was a customary form of punishment utilized by the defendants, and severe and brutal punishment was inflicted upon starving victims who tried desperately to obtain adequate food. The defendant Loeser ordered food with-

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held from foreign civilians who might be regarded as loafing on the job. Similar measures were applied against prisoners of war and Italian internees. The defendant von Buelow openly authorized the administration by Krupp personnel of severe corporal punishment to foreign workers caught stealing food.

59. Food, sanitary measures, medical assistance, clothing, and shelter were customarily inadequate, and as a result, many of the workers became ill and died. After describing the horrible living conditions, barely sufficient food, the lack of medicine, bandages, and proper medical treatment in one of the prisoner of war camps in Essen, a Krupp doctor found it astonishing that the number of sick was not higher than it in fact was—9–10 percent of the inmates. Krupp doctors had severe standards for release from work, and persons able to march to work were not ordinarily regarded as "sick." The chief physician at Krupp, Essen, reported to the defendants Alfried Krupp and Loeser, concerning the health conditions among eastern workers in 1942, that no hunger oedema had been observed among German workers, but it had appeared among eastern workers. The Krupp hospital in Essen, in reporting the causes of death in a group of 54 eastern workers, referred to four deaths by external causes and 50 as a result of illnesses among which were 38 cases of tuberculosis and two of malnutrition.

60. Slave workers were exposed to air raids, deprived of shelter and protection from air raids, and required to work in the most dangerous locations during air raid alarms. Krupp continued to demand and to receive thousands of foreign workers, prisoners of war, and concentration camp inmates, knowing that air-raid shelter other than trenches would not be provided. Concentration camp inmates employed at the Krupp Bertha Works were the last workers to leave this armament plant during an air raid alarm.

61. Prisoners of war and foreign civilians were used in war operations, including the manufacture and transport of armament and munitions, and were exploited and ill-treated under these and other conditions of employment. On 25 January 1944, Krupp employed on tank production, in one department, at least 1,151 civilian foreign workers and 412 prisoners of war.

62. Krupp engaged in a policy and a widespread practice of exploitation of concentration camp labor. These concentration camp inmates were employed, among other places, at the Gusstahlfabrik in Essen; the Bertha Works in Markstaedt near Breslau; Wuestegiersdorf; the Norddeutsche Huette; Deschimag; Weser Flugzeugbau, G.m.b.H.; Geisenheim; the ELMAG plant in Mulhouse, Alsace, France, and at a plant in the notorious concentra-

tion camp at Auschwitz. During negotiations with the SS and Special Committee M3 of the Office of the Reich Minister for Armament and War Production in 1943, Krupp participated in the giving to the SS of lists of approximately 500 Jewish workers and in their compulsory transfer from Berlin to the Auschwitz concentration camp for work in Krupp's contemplated production of shell fuses at Auschwitz. The defendants Mueller and Eberhardt were notified of this action. Numerous other important Krupp projects were planned upon the assumption and the intention that the labor of concentration camp inmates would be available for the execution of those projects, including a plant at Maehrisch-Schoenberg and four earlier projects at Auschwitz. The defendant von Buelow and others frequently referred Krupp workers to and received them back from the Dechenschule disciplinary camp in Essen.

63. The acts and conduct of the defendants set forth in this count were committed unlawfully, willfully, and knowingly and constitute violations of international conventions, particularly of Articles 3–7, 14, 18, 23, 43, 46, and 52 of the Hague Regulations, 1907; and of Articles 2–4, 6, 9–15, 23, 25, 27–34, 46–48, 50, 51, 54, 56, 57, 60, 62, 63, 65–68, and 76 of the Prisoners of War Convention (Geneva, 1929); of the laws and customs of war; of the general principles of criminal law as derived from the criminal laws of all civilized nations; of the internal penal laws of the countries in which such crimes were committed; and Article II of Control Council Law No. 10.

COUNT FOUR—COMMON PLAN OR CONSPIRACY

64. All the defendants, with divers other persons, during a period of years preceding 8 May 1945 participated as leaders, organizers, instigators, and accomplices in the formulation and execution of a common plan and conspiracy to commit, and which involved the commission of, crimes against peace (including the acts constituting war crimes and crimes against humanity, which were committed as an integral part of such crimes against peace) as defined in Control Council Law No. 10, and are individually responsible for their own acts and for all acts committed by any persons in the execution of such common plan or conspiracy.

65. The acts and conduct of the defendants set forth in counts one, two, and three of this indictment formed a part of said common plan or conspiracy and all the allegations made in said counts are incorporated in this count.

Wherefore, this indictment is filed with the Secretary General of the Military Tribunals and the charges herein made against the above-named defendants are hereby presented to the Military Tribunals.

TELFORD TAYLOR
Brigadier General, U.S. Army
Chief of Counsel for War Crimes
Acting on behalf of the United States of America

Nuernberg, *16 August 1947*

APPENDIX "A" TO INDICTMENT

Among the activities, memberships in organizations and groups, high positions in the financial, industrial, and economic life of Germany, and the high political and civil positions held by the defendants in Germany were those listed below. The capital structures of the firms listed are taken as of 1939, unless otherwise indicated.

ALFRIED KRUPP VON BOHLEN UND HALBACH

Born 13 August 1907 in Bredeney (Kreis Essen), Germany.

NSDAP—December 1938; party member No. 6989627.

SS—sponsoring member (foerderndes Mitglied), 1931.

NSFK [National Socialist Flying Corps], member, 1935; attaining rank of Standartenfuehrer (colonel).

Nationalsozialistische Volkswohlfahrt (National Socialist People's Welfare, commonly and herein referred to as the "NSV"), member.

Adolf Hitler Spende der Deutschen Wirtschaft (Adolf Hitler Fund of German Industry, organization for collection of funds from industry for organizations and projects of the Third Reich and NSDAP), deputy chairman of the Kuratorium (governing board).

Deutscher Kolonialbund (an organization for the recovery and advancement of German colonial interests), member.

Verein fuer das Deutschtum in Ausland (an organization for the advancement abroad of German cultural, economic, and political interests), member.

Recipient of Kriegsverdienstkreuz (War Merit Cross) 1st and 2d class.

Wehrwirtschaftsfuehrer (military economy leader).

KRUPP FIRMS

Engineering apprentice, Gusstahlfabrik Fried. Krupp A.G., 1925, 1926, and several succeeding years thereafter. Entered employ, Gusstahlfabrik, Fried. Krupp A.G., 1935.

Prokurist and deputy director in War Material and Artillery Designing Department, 1936.

Member of Vorstand, Fried. Krupp A.G., and head of Raw Materials and War Material Departments, 1 October 1938.

Chairman of Vorstand, Fried. Krupp A.G., March 1943.

Owner and proprietor of Fried. Krupp, Essen, private firm, and "Fuehrer der Betriebe" (Leader of the Plants), from 15 December 1943.

Aktiengesellschaft fuer Unternehmungen der Eisen- und Stahlindustrie, Berlin; capitalization 12,000,000 RM; 100 percent owned by Krupp; holding company, financing and administration; member of Aufsichtsrat.

Badische Wolframerz G.m.b.H., Soellingen near Karlsruhe; capitalization 200,000 RM; 100 percent owned by Krupp; tungsten ore; member of Aufsichtsrat.

Berndorfer Metallwarenfabrik Arthur Krupp A.G., Berndorf, Austria; capitalization 12,000,000 RM; 93 percent owned by Krupp; small arms ammunition, nonferrous and stainless steel production; member of Aufsichtsrat.

Capito und Klein A.G., Duesseldorf-Benrath; capitalization 3,000,000 RM; about 97 percent owned by Krupp; production of sheet metal and tin plate; member of Aufsichtsrat.

Deutsche Schiff and Maschinenbau ("Deschimag") A.G., Bremen; capitalization 20,000,000 RM (1944); 57 percent owned by Krupp; shipbuilding, including all types of warships and U-boats; deputy chairman of Aufsichtsrat.

Fried. Krupp Berthawerk A.G., Markstaedt near Breslau; capitalization 100,000,000 RM; 100 percent owned by Krupp; field guns, torpedo tubes; chairman of Aufsichtsrat.

Fried. Krupp Germanianwerft A.G., Kiel-Gaarden; capitalization 7,500,000 RM; 100 percent owned by Krupp; shipbuilding, including all types of warships and U-boats; member of Aufsichtsrat.

Fried. Krupp-Grusonwerk A.G., Magdeburg-Buckau; capitalization 10,000,000 RM; 100 percent owned by Krupp; machine construction, rolling mills, steel cylinders, medium ordnance; member of Aufsichtsrat.

Gewerkschaft Emscher-Lippe, Datteln/Westphalia; capitalization 1,000 kuxe; 100 percent owned by Krupp; coal mining and coke production; member of Grubenvorstand.

Gewerkschaft Schlesische Nickerlwerke, Glaesendorf near Frankenstein in Silesia; capitalization 100 kuxe; 100 percent owned by Krupp; nickel, ore mining; member of Grubenvorstand.

Gewerkschaft Verein Constantin der Grosse, Bochum; capitalization 5,000 kuxe; 51 percent owned by Krupp; coal mining and coke production; member of Grubenvorstand.

Norddeutsche Huette A.G., Bremen-Oslebshausen; capitalization 4,500,000 RM; about 97 percent owned by Krupp; pig iron works; member of Aufsichtsrat.

N.V. Stuwadoors Maatschappij "Kruwal," Rotterdam; capitalization 1,000,000 Dutch florins; 50 percent owned by Krupp and 50 percent by Gute Hoffnungshuette; warehousing and shipping; member of Aufsichtsrat.

Siedlungs-Gesellschaft Rossenray A.G., Rheinberg; capitalization 200,000 RM; 100 percent owned by Krupp; building society; member of Aufsichtsrat.

"Weser" Flugzeugbau G.m.b.H., Bremen; capitalization 12,000,000 RM (1944); owned by Deschimag; aircraft production; member of Beirat.

Westfaelische Drahtindustrie, Hamm/Westphalia; capitalization 7,667,000 RM; about 75 percent owned by Krupp; wire products; member of Aufsichtsrat.

PRIVATE CORPORATE CONNECTIONS OTHER THAN WITH KRUPP FIRMS

A. *Industrial and Mining*

Siemens-Schuckert Works A.G., Berlin; capitalization 120,000,000 RM; one of the two largest German electrical concerns; member of Aufsichtsrat.

Vereinigte Industrie Unternehmungen A.G., Berlin (commonly referred to as "VIAG"); capitalization 230,000,000 RM; 100 percent owned by German Reich; holding company and administrator of numerous Reich enterprises; member of Aufsichtsrat.

B. *Banking and Insurance*

Allianz-Versicherungs A.G., Berlin; capitalization 60,000,000 RM; largest German insurance company; member of Aufsichtsrat.

Dresdner Bank, Berlin; capitalization 150,000,000 RM; second largest German bank; member of Aufsichtsrat.

C. *Railroads and Transport*

Deutsche Reichsbahn (German Railways); member of Beirat.

Flughafen G.m.b.H., Essen-Muelheim; airfield; member of Aufsichtsrat.

D. *Industrial-Economic Associations*

Ausfuhrgemeinschaft fuer Kriegsgeraet (Armaments Export Association of the Reichsgruppe Industrie, commonly and herein referred to as the "AGK"), member of the Beirat.

Bezirksgruppe NW Eisenschaffende Industrie (District Group Northwest of Iron Producing Industry, commonly and herein referred to as the "District Group NW," an official body for the governance of the iron and steel industries), member of Beirat and deputy chairman.

Wirtschaftsgruppe Eisenschaffende Industrie (Economic Group Iron Producing Industry, herein referred to as the "WGE", an official body for the governance of the iron and steel industries), deputy chairman.

Reichsvereinigung Eisen (Reich Association Iron, called "RVE," an official body for the governance of the iron and steel industries), deputy chairman thereof, and chairman of Raw Material and Traffic Committee.

Reichsvereinigung Kohle (Reich Association Coal, called "RVK," an official body for the governance of the coal industry), member of Praesidium, and chairman of Organization Committee.

Rheinisch-Westfaelisches Kohlensyndikat, Essen (Rhine-Westphalia Coal Syndicate, the largest coal syndicate in Germany, herein referred to as the "RWKS"), member of Aufsichtsrat.

Verein fuer Bergbauliche Unternehmungen-Interessen, Essen (Association of Mining Enterprise Interests), member of Vorstand.

Verein deutscher Eisenhuettenleute, Duesseldorf (Association of German Iron Foundrymen), member of Vorstand.

POLITICAL AND GOVERNMENTAL POSITIONS

Armament Commission (Ruestungsrat) in Office of Reich Minister for Armament and War Production (Reichsminister fuer Ruestung und Kriegsproduktion), member.

Berg- und Huettenwerksgesellschaft Ost m.b.H., (called "BHO," a government sponsored company for the exploitation of Russian mining and smelting industries), member of Verwaltungsrat.

EWALD LOESER

Born 11 April 1888 at Storkow, Germany.

NSFK, member, June 1933.

Recipient of Kriegsverdienstkreuz [War Merit Cross] 2d Class.

Wehrwirtschaftsfuehrer [military economy leader].

KRUPP FIRMS

Member of Vorstand, Fried. Krupp A.G., 1 October 1937.

Head of the Administrative and Finance Departments, 1 October 1937.

Head of the Commercial Department, 1938.

Resigned 31 March 1943, effective 31 December 1943, but retained membership on Aufsichtsraete of several Krupp firms.

Aktiengesellschaft fuer Unternehmungen der Eisen- und Stahlindustrie, Berlin (see above, under Alfried Krupp); member of Aufsichtsrat.

Berndorfer Metallwarenfabrik Arthur Krupp A.G., Berndorf, Austria (see above, under Alfried Krupp); member of Aufsichtsrat.

Capito und Klein A.G., Duesseldorf-Benrath (see above, under Alfried Krupp); deputy chairman of Aufsichtsrat.

Fried. Krupp Berthawerk A.G., Markstaedt near Breslau (see above, under Alfried Krupp); member of Aufsichtsrat.

Fried. Krupp Germaniawerft A.G., Kiel-Gaarden (see above, under Alfried Krupp); member of Aufsichtsrat.

Fried. Krupp-Grusonwerk A.G., Magdeburg-Buckau (see above, under Alfried Krupp); member of Aufsichtsrat.

Gewerkschaft Emscher-Lippe, Datteln/Westphalia (see above, under Alfried Krupp); member of Grubenvorstand.

Gewerkschaft Verein Constantin der Grosse, Bochum (see above, under Alfried Krupp); deputy chairman of Grubenvorstand.

Krupp's Ertshandelmaatschappij N.V., Rotterdam; capitalization 7,500,000 Dutch florins; 100 percent owned by Krupp; ore trading and financing of Krupp's undertakings in Holland; chairman of Aufsichtsrat.

Krupp's Reederij en Transportbedrijf N.V., Rotterdam; capitalization 1,000,000 Dutch florins; 100 percent owned by Krupp; ore shipping and forwarding; chairman of Aufsichtsrat.

Norddeutsche Huette A.G., Bremen-Oslebshausen (see above, under Alfried Krupp); deputy chairman of Aufsichtsrat.

N.V. Stuwadoors Maatschappij "Kruwal," Rotterdam (see above, under Alfried Krupp); member of Aufsichtsrat.

Ruhrbenzol G.m.b.H., Bochum; capitalization 400,000 RM; 100 percent owned by Krupp; holding company; member of Vorstand.

Westfaelische Drahtindustrie, Hamm/Westphalia (see above, under Alfried Krupp); deputy chairman of Aufsichtsrat.

PRIVATE CORPORATE CONNECTIONS OTHER THAN WITH KRUPP FIRMS

A. *Industrial and Mining*

AEG-Allgemeine Elektrizitaetsgesellschaft, Berlin; capitalization 120,000,000 RM; one of the two largest German electrical concerns; member of Aufsichtsrat.

Hotelbetriebs A.G., Berlin; capitalization 21,000,000 RM; hotel ownership and management; member of Aufsichtsrat.

B. *Banking and Insurance*

Deutsche Centralbodenkredit A.G., Berlin; capitalization 43,000,000 RM; mortgages and loans; member of Aufsichtsrat.

Dresdner Bank, Berlin (see above, under Alfried Krupp); member of Aufsichtsrat.

Frankfurter Hypothekenbank, Frankfurt/M; capitalization 12,000,000 RM; mortgages and loans; member of Aufsichtsrat.

Gerling Konzern Allgemeine Versicherungs A.G., Cologne; capitalization 7,000,000 RM; fire, theft, and transport insurance; member of Aufsichtsrat.

C. *Industrial—Economic Associations*

District Group NW, member of Beirat.

WGE, member of Beirat.

Kleiner Kreis (a group of leaders of the WGE who exercised great influence over the coal, iron and steel industries), Krupp representative.

Stahlwerksverband A.G., Duesseldorf; largest steel cartel in Germany; deputy chairman of Aufsichtsrat.

POLITICAL AND GOVERNMENT POSITIONS

Buergermeister [mayor] and sometime Oberbuergermeister, [Lord Mayor] of Leipzig.

Industrie und Handelskammer (Chamber of Industry and Commerce), Essen; member of Verwaltungsrat.

Reich trustee for Philips Radio, Eindhoven, Netherlands, 1944.

EDUARD HOUDREMONT

Born 19 May 1896 in Luxembourg; naturalized German citizen in 1934–1935.

NSDAP, 1 July 1940; party member No. 8301922.

Recipient of Ritterkreuz des Kriegsverdienstkreuzes, and of Kriegsverdienstkreuzes, 2d class.

Professor (Honorarprofessor) of Science of Iron Production (Eisenhuettenkunde) at Technical College (Technische Hochschule) in Aachen.

Wehrwirtschaftsfuehrer [military economy leader].

KRUPP FIRMS

Entered employ, Gusstahlfabrik, Fried. Krupp A.G., as directorial assistant in Steel Department, 1 October 1926.

Prokurist, January 1930.

Head of Metallurgical Department, and deputy head of steel plants, July 1932.

Head of Steel Research Department, 1936.

Deputy director, October 1938.

Deputy member of Vorstand, Fried. Krupp A.G., and metallurgical representative thereof, March 1941.

Member of Vorstand, Fried. Krupp A.G., and head of Metallurgical and Steel Departments, March 1943.

Head of Machine Department, November 1943.

Member of Direktorium, Fried. Krupp, Essen, private firm, December 1943.

Plenipotentiary General, Fried. Krupp, Essen, 1943–1944.

Plant Leader of Gusstahlfabrik, September 1944.

PRIVATE CORPORATE CONNECTIONS OTHER THAN WITH KRUPP FIRMS

Stahlwerk Becker A.G., Willich near Krefeld; capitalization 2,400,000 RM (1938); wire and special steels; member of Aufsichtsrat.

INDUSTRIAL—ECONOMIC ASSOCIATIONS

Verein deutscher Eisenhuettenleute, member of Chemical Committee, head of Synthetic Products Committee, member of Vorstand.

RVE, deputy head of the Technical Committee for Iron Alloys (Fachausschuss fuer Ferrolegierungen).

Fachgruppe Edelstahl (branch group high grade steels, a sub-group of WGE), vice chairman.

POLITICAL AND GOVERNMENTAL POSITIONS

Advisor to administrators of Four Year Plan.

Information Recording Center for Scarce Metals (Erfahrungsgemeinschaft Mangelmetalle) in the Office of Reich Minister for Armament and Munitions (Reichminister fuer Bewaffnung und Munition), head.

Special Commissioner for Metal Substitutes (Sonderbeauftragter fuer Metallumstellung) in Reich Ministry for Armament and War Production, and Ministry of Economics (Reichswirtschaftsministerium), 1942.

ERICH MUELLER

("Kanonen-Mueller")*

Born 2 November 1892 in Berlin, Germany.

NSDAP, 1 May 1933; party member No. 2637734.

Sturmabteilungen der NSDAP (SA) membership application, 1933.

NSV, member.

Recipient from Hitler of honorary designation of "Professor," 1943.

Recipient of Kriegsverdienstkreuz 1st and 2d class.

Wehrwirtschaftsfuehrer (war economy leader).

KRUPP FIRMS

Entered employ, Gusstahlfabrik, Fried. Krupp A.G., in Artillery Designing Department, 1 April 1935.

Holder of limited power of attorney, 23 July 1935.

Prokurist, February 1936.

Head of Artillery Designing Department, May 1936.

Deputy director, October 1938.

Deputy member of Vorstand, Fried. Krupp A.G., March 1941.

Member of Vorstand, Fried. Krupp A.G., March 1943.

Head of Machine Department, March–November 1943.

Member of Direktorium, Fried. Krupp, Essen, private firm, December 1943.

Plenipotentiary General, 1943–1944.

Fried. Krupp Berthawerk A.G., Markstaedt near Breslau (see above, under Alfried Krupp); member of Aufsichtsrat.

PRIVATE CORPORATE CONNECTIONS OTHER THAN WITH KRUPP FIRM

Railroads, Deutsche Reichsbahn, employee and official, 1922–1935.

POLITICAL AND GOVERNMENTAL POSITIONS

Armaments adviser to Hitler.

Adviser to the War Ministry.

Armament Committee (Waffen-Ausschuss) in the office of Reich Minister for Armament and Munitions (Reichminister fuer Bewaffnung und Munition), head, 1940.

Information Recording Center for Grease and Oil (Erfahrungsgemeinschaft fuer Schmierstoffe und Oele) in the office of Reich Minister for Armament and Munitions, head, 1940.

Weapons Development Committee (Waffenentwicklungskommission) of the Ministry for Armament and War Production, head, 1941.

* The defendant was widely known under the name of "Kanonen-Mueller" ("Cannon-Mueller").

FRIEDRICH JANSSEN

Born 14 May 1887 at Wesel, Germany.
Stahlhelm member, 1929–1930.
NSDAP, 1 May 1933; party member No. 3421734.
SS Oberscharfuehrer, 1934, and sponsoring member from 1935.
NSV, member.
Wehrwirtschaftsfuehrer [war economy leader].

KRUPP FIRMS

Entered employ, Gusstahlfabrik, as head of statistical and intelligence departments, and assistant to financial manager, 1 November 1918.

Holder of limited power of attorney, December 1919.

Prokurist, March 1927.

Departmental director (Abteilungsdirektor) in Administrative Department, January 1931.

Deputy director, representative of the Vorstand and head of Berlin office, April 1937.

Director and a deputy member of Vorstand, Fried. Krupp A.G., March 1941.

Member of Vorstand, Fried. Krupp A.G., March 1943, in charge of Commercial, Administrative and Finance Departments.

Member of Direktorium, Fried. Krupp, Essen, private firm, December 1943.

Plenipotentiary General, Fried. Krupp, Essen, 1943–1944.

Bergbau A.G. Lothringen-Bochum, capitalization 20,800,000 RM; operated and controlled by Krupp, coal mining and coke production; member of Grubenvorstand.

Berndorfer Metallwarenfabrik Arthur Krupp A.G., Berndorf, Austria (see above, under Alfried Krupp); deputy chairman of Aufsichtsrat.

Capito und Klein A.G., Duesseldorf-Benrath (see above, under Alfried Krupp); deputy chairman of Aufsichtsrat.

Fried. Krupp Berthawerk A.G., Markstaedt near Breslau (see above, under Alfried Krupp); deputy chairman of Aufsichtsrat.

Fried. Krupp Germaniawerft A.G., Kiel-Gaarden (see above, under Alfried Krupp); deputy chairman of Aufsichtsrat.

Fried. Krupp-Grusonwerk A.G., Magdeburg-Buckau (see above, under Alfried Krupp); deputy chairman of Aufsichtsrat.

Gewerkschaft Emscher-Lippe, Datteln/Westphalia (see above, under Alfried Krupp); member of Grubenvorstand.

Gewerkschaft Verein Constantin der Grosse, Bochum (see above, under Alfried Krupp); member of Grubenvorstand.

Gewerkschaft Rossenray der Grubenfelder, Essen; capitalization 1,900 kuxe; 100 percent owned by Krupp; coal mining; member of Grubenvorstand.

F. C. Glaser und R. Pflaum Kommandit-Gesellschaft, Berlin; capitalization 400,000 RM; 50 percent owned by Krupp in 1939, and 100 percent in 1944; sale of narrow gauge railways; chairman of Verwaltungsrat.

Norddeutsche Huette A.G., Bremen-Oslebshausen (see above, under Alfried Krupp); deputy chairman of Aufsichtsrat.

Westfaelische Drahtindustrie, Hamm/Westphalia (see above, under Alfried Krupp); deputy chairman of Aufsichtsrat.

INDUSTRIAL—ECONOMIC ASSOCIATIONS

Mitteleuropaeischer Wirtschaftstag (Central European Economic Diet), member of Vorstand.

Reichsgruppe Industrie (Reich Group Industry, an official body for the governance of German industry), member of Committee on Foreign Matters (Aussenhandelsausschuss).

Verein deutscher Eisenhuettenleute, member.

POLITICAL AND GOVERNMENTAL POSITIONS

City Councillor (Stadtverordneter) of Essen.

KARL PFIRSCH

Born 30 November 1877 in Schweinfurt, Germany.

NSDAP, 1 May 1937; party member No. 5608734.

Recipient of Kriegsverdienstkreuz 2d class.

Recipient of Kommandeurkreuz des Bulgarischen Verdienstordens.

Wehrwirtschaftsfuehrer [war economy leader].

KRUPP FIRMS

Entered employ, Gusstahlfabrik, Fried. Krupp A.G., as correspondence clerk in one of the commercial departments, 17 July 1902.

Member of War Material Sales Department, July 1912.

Holder of limited power of attorney, October 1914.

Prokurist, December 1917.

Head of the Machinery Sales Department, 1919–1920.

Deputy director, November 1923.

In charge of the commercial and sales sections of War Material Department, 1927.

Deputy member of Vorstand, Fried. Krupp A.G., 1941.

Head of Berlin office, March 1943.

Deputy member of Direktorium, Fried. Krupp, Essen, private firm, December 1943.

Fried. Krupp Berthawerk A.G., Markstaedt near Breslau (see above, under Alfried Krupp); member of Aufsichtsrat.

INDUSTRIAL—ECONOMIC ASSOCIATIONS

AGK, member of Beirat.

MAX IHN

Born 25 January 1890 at Wilhelmshaven, Germany.

NSDAP, 1 May 1933; party member No. 3421752.

Recipient of Kriegsverdienstkreuz 1st and 2d class.

KRUPP FIRMS

Entered employ, Westfaelische Drahtindustrie A.G., Hamm, a Krupp subsidiary, 1 December 1921.

Entered employ, Gusstahlfabrik, Fried. Krupp A.G., 1 June 1933.

Prokurist, August 1933.

Head of staff department for salaried employees, 1934.

Deputy Abwehrbeauftragter, 1935.

Departmental director (Abteilungsdirektor), October 1937.

Deputy director and head of Personnel Department, with jurisdiction over Propaganda and Press Department, October 1938.

Director, March 1941.

Deputy member of Vorstand, Fried. Krupp A.G., March 1943.

Deputy member of Direktorium, Fried. Krupp, Essen, private firm, December 1943.

Deputy Plant Leader of Gusstahlfabrik, September 1944.

INDUSTRIAL—ECONOMIC ASSOCIATIONS

District Group N.W., member of Beirat, Krupp representative on Welfare (Wohlfahrt) and on Social, Political Committees.

Reich Group Industry, member of Social Insurance Committee; and Chairman of Committee for High Quality Work (Qualitaetsarbeit).

RVE, member of Committee on Vocational Education (Berufsausbildung), and Committee for Evaluation of Labor Efficiency (Arbeitsbewertung).

Verein deutscher Eisenhuettenleute, member.

POLITICAL AND GOVERNMENTAL POSITIONS

City Councillor (Ratsherr) of Essen.

KARL EBERHARDT

Born 23 March 1894 at Meiningen, Germany.

NSDAP, 1 May 1937; party member No. 4038202.

NSV, member.

Recipient of Kriegsverdienstkreuz 1st and 2d class.

KRUPP FIRMS

Entered employ, Gusstahlfabrik, Fried. Krupp A.G., in buying office of Narrow Gauge Railway Department, October 1919.

Deputy head of buying office, January 1921.

Head of buying office, July 1921.

Deputy head of a group of departments (Gruppenvorstand), in Narrow Gauge Railway Department, February 1923.

Head of Motor Vehicle Sales Department with a limited power of attorney, March 1926.

Head of a group of price determination and accounting departments in War Material Department, September 1933.

Prokurist and in charge of inland war material orders, 1934.

In charge of foreign war material orders, 1936.

Department director (Abteilungsdirektor), October 1937.

Deputy director in War Material Department, October 1938.

Director in War Material Department, March 1941.

Deputy member of Vorstand and head of Machine Sales Department, March 1943.

Deputy member of Direktorium, Fried. Krupp, Essen, private firm, December 1943.

Special representative of the Direktorium on management problems, plant acquisition, and armament projects.

Sartana Eisen- und Metallwerke G.m.b.H., Essen; capitalization 100,000 RM (1944); 100 percent owned by Krupp; member of Aufsichtsrat.

HEINRICH KORSCHAN

Born 24 October 1895 in Brod, Hungary;* naturalized German citizen in 1930.

NSDAP, 1 May 1933; Party member No. 3419293.

NSV, member.

Recipient of Kriegsverdienstkreuz 1st and 2d class.

Wehrwirtschaftsfuehrer [war economy leader].

KRUPP FIRMS

Entered employ, Gusstahlfabrik Steel Department, Fried. Krupp A.G., 1 April 1927.

Head of Steel Plants and Machine Works, and deputy head of Metallurgical Department, July 1932.

Deputy Director, October 1938.

Director and a Deputy Member of Vorstand, Fried. Krupp A.G., March 1941.

Trustee for Krupp enterprises in eastern and southeastern Europe, including works in Kramatorskaya and in Mariupol, 1942.

Chairman of Vorstand and Plant Leader, Fried. Krupp Bertha Works A.G., Markstaedt, June 1943.

Technical manager of Breslau branch of Berlin office, December 1944.

Krupp liaison with BHO.

INDUSTRIAL—ECONOMIC ASSOCIATIONS

Verein deutscher Eisenhuettenleute, member.

POLITICAL AND GOVERNMENTAL POSITIONS

Designated military administrator (Oberkriegsverwaltungsrat) in charge of iron producing units in Leningrad, 1941.

FRIEDRICH von BUELOW

Born 29 November 1889 in Cologne, Germany.

Recipient of Kriegsverdienstkreuz 2d Class.

KRUPP FIRMS

Entered employ Fried. Krupp A.G., at Berlin branch office, 1 April 1932.

Manager of Berlin branch office, October 1942.

Prokurist, September 1933.

Special salesman and representative in Brazil from July 1936–May 1938.

Head of numerous departments, including those concerned with advertising, visitor's reception, intelligence, history, and technical translations at Gusstahlfabrik, 1 October 1938.

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* In the session of 9 December 1947 (*Tr. p. 154*), Mr. Thayer stated: "The attention of the Tribunal is called at this point to an error on page 68 of appendix "A" of the indictment. Counsel for the defendant Korschan has stipulated by means of a certificate, and the prosecution agrees, that there is an error with respect to the birth place of the defendant Korschan. It should be, I believe—although it has not yet been translated—it should be corrected to Hungarian Brod, B-R-O-D, formerly Austria, and presently part of Czechoslovakia."

Military Hauptabwehrbeauftragter (head of counter intelligence and liaison with Nazi officials) and head of the Plant Police (Werkschutz) at Gusstahlfabrik, 1939.

Political Hauptabwehrbeauftragter, 1943.

Departmental director (Abteilungsdirektor), January 1944.

Confidential aid to Gustav Krupp von Bohlen und Halbach, from 1932.

PRIVATE CORPORATE CONNECTIONS OTHER THAN WITH KRUPP FIRMS

Bd. Blumenfeld, Hamburg; legal advisor and manager, 1923–1932.

INDUSTRIAL—ECONOMIC ASSOCIATIONS

District Group N.W., Krupp representative on Press and Propaganda, and on Social Welfare Committees.

HEINRICH LEHMANN

Born 12 August 1904 at Magdeburg, Germany.

NSDAP, 1 April 1941; party member No. 8303913.

NSFK, member, 1935.

NSV, member.

Recipient of Kriegsverdienstkreuz [War Merit Cross] 2d class.

KRUPP FIRMS

Entered employ, Gusstahlfabrik, Fried. Krupp A.G., 1 March 1940, as assistant and later deputy to Ihn in respect to general personnel and administrative matters. In charge of Arbeitseinsatz A (labor procurement and recruiting).

Holder of limited power of attorney, June 1940.

Designated Krupp liaison with DAF, 1942.

Prokurist, 1 January 1944.

PRIVATE CORPORATE CONNECTIONS OTHER THAN WITH KRUPP FIRMS

Employed at Trommler Verlag, Magdeburg, 1934; Junkers Flugzeug- und Motorenwerke A.G., Dessau, 1935–1937; and Frankfurter Maschinenbau A.G., vormals Pokorny and Wittekind, Frankfurt/Main, 1938–1940.

HANS KUPKE

Born 18 March 1885 at Ostrow-Posen, then part of Germany.

NSDAP, 1 May 1933; party member No. 1988328.

KRUPP FIRMS

Entered employ, Gusstahlfabrik Artillery Designing Department, Fried. Krupp A.G., in foreign business branch, 16 August 1938.

Head of Essen experimental firing ranges, 1939.

Head of foreign workers camps (Oberlagerfuehrer), with a limited power of attorney, 1942.

Camp Abwehrbeauftragter and liaison with Gestapo.

Head of a group of departments (Gruppenvorstand), September 1943.

GOVERNMENTAL POSITIONS

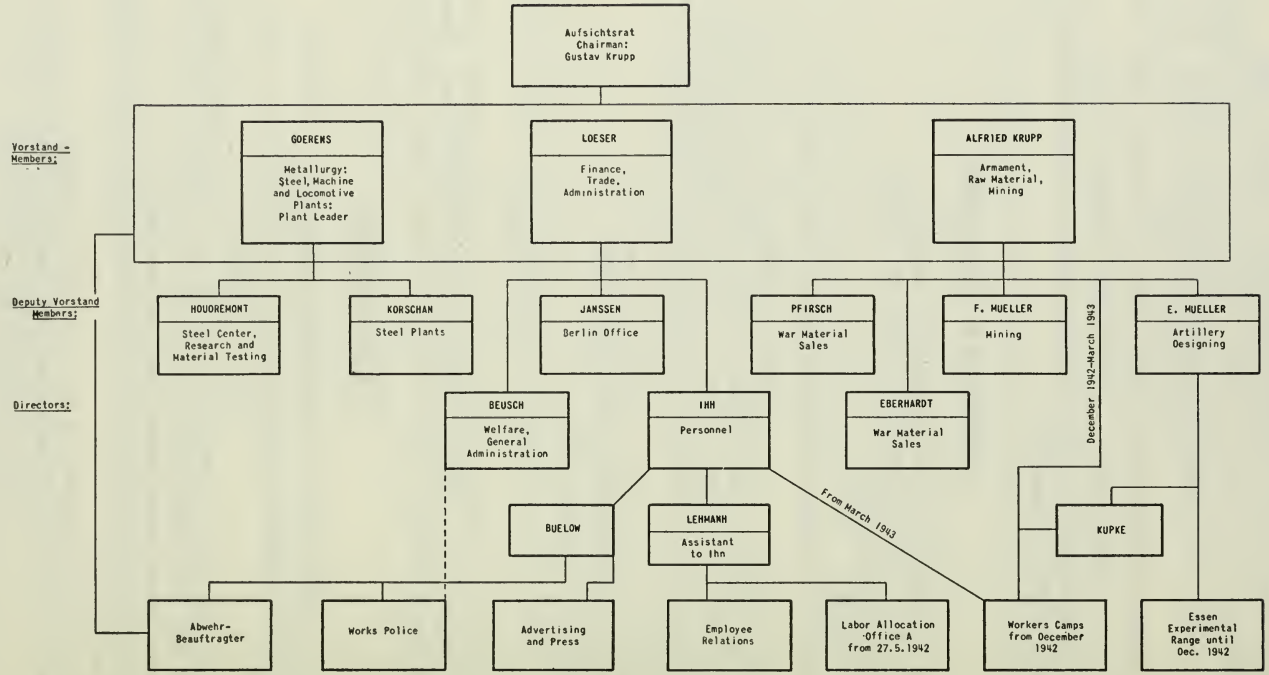
Instructor, Hanover police, 1920.

Left Burg police school with rank of lieutenant colonel, April 1934.

Officer in Heereswaffenamt (Army Ordnance Office), Berlin, 1935–1938.

TRANSLATION OF DOCUMENT NIK - 12005 A
CHART 6

FRIED. KRUPP A.G. AND GUSSTAHLFABRIK
APRIL 1941 - APRIL 1943

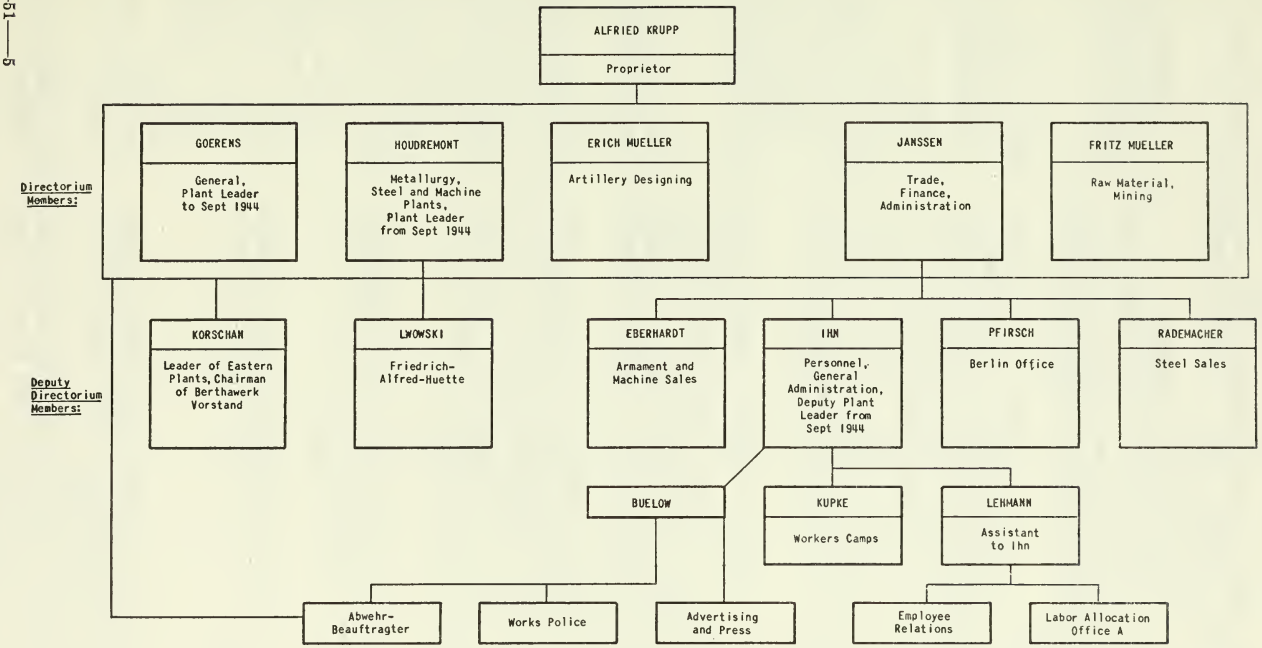


(Handschriftliche Unterschrift) HAUPT
22.10.1947

CHART J

FRIED. KRUPP AND GUSSTAHLFABRIK

29 DECEMBER 1943 - MAY 1945



(Handschriftliche Unterschrift) HAUPT
22.10.1947

APPENDIX "B" TO INDICTMENT

The companies comprising and under the control of Fried. Krupp A.G. and Fried. Krupp, Essen, private firm, include, among others, the following—the capital structure of which is taken as of 1944 unless otherwise indicated:

Name, location, capitalization and ownership of company	*Principal functions or products of company*
Aktiengesellschaft fuer Unternehmungen der Eisen-und Stahlindustrie, Berlin; capitalization 15,000,000 RM; 100 percent owned by Krupp.	Holding company, financing and administration.
Berndorfer Metallwarenfabrik Arthur Krupp A.G., Berndorf, Austria; capitalization 20,000,000 RM; 93 percent owned by Krupp.	Small arms ammunition, nonferrous and stainless steel products.
Deutsch-Bulgarische Chrom-Erzbergbau A.G., Sofia; capitalization 10,000,000 Lewa; 100 percent owned by Krupp.	Chrome ore mining and dressing.
Deutsche Schiff und Maschinenbau ("Deschimag") A.G., Bremen; capitalization 20,000,000 RM; 57 percent owned by Krupp.	Engines, ships' auxiliary machinery, shipbuilding, including all types of warships and U-boats.
ELMAG, Werke Elsass, Maschinenbau G.m.b.H., Mulhouse, Alsace; capitalization 10,000 RM; 100 percent owned by Krupp.	Trucks and machinery.
Friedrich-Alfred-Huette, Rheinhausen, (plant section of Fried. Krupp and Fried. Krupp A.G.)	Rolled products, hydraulic constructional engineering.
Fried. Krupp Berthawerk A.G., Markstaedt, near Breslau; capitalization 100,000,000 RM; 100 percent owned by Krupp.	Field guns, torpedo tubes, airplane crankshafts.
Fried. Krupp Germaniawerft A.G., Kiel-Gaarden; capitalization 10,000,000 RM; 100 percent owned by Krupp.	Engines, ships' auxiliary machinery, shipbuilding, including all types of war ships and U-boats.
Fried. Krupp-Grusonwerk A.G., Magdeburg-Buckau; capitalization 20,000,000 RM; 100 percent owned by Krupp.	Machine construction, rolling mills, steel cylinder, castings, forgings, medium ordnance.
Fried. Krupp-Gusstahlfabrik, Essen (plant section of Fried. Krupp and Fried. Krupp A.G.).	Armor plate, ordnance tanks, locomotives, steelworks, rolling mills, machine construction, war material.
Gewerkschaft Emscher-Lippe, Datteln/Westphalia; capitalization 1,000 kuxe; 100 percent owned by Krupp.	Coal mining and coke production.
Gewerkschaft Verein Constantin der Grosse, Bochum; capitalization 5,000 kuxe; 51 percent owned by Krupp.	Coal mining and coke production.
Griechische Bergbau A.G., Athens; capitalization 10,000,000 drachmas; 100 percent owned by Krupp.	Metal ore mining.

Name, location, capitalization and ownership of company	*Principal functions or products of company*
Krupp-Brussels S.A., Brussels; capitalization 6,250,000 Belgian francs; 100 percent owned by Krupp.	Field and industrial narrow gauge railway material.
Krupp, S.A., Paris; capitalization 20,000,000 French francs; 100 percent owned by Krupp.	Holding company, automobile repairs, production of tractor parts.
Krupp Druckenmueller G.m.b.H., Berlin-Tempelhof; capitalization 4,000,000 RM; 100 percent owned by Krupp.	Heavy construction work.
Krupp Raederei- und Kohlenhandel G.m.b.H., Hamburg; capitalization 1,000,000 RM; 100 percent owned by Krupp.	Shipping and coal trading.
Krupp Treibstoffwerk G.m.b.H., Essen; capitalization 20,000,000 RM; 100 percent owned by Krupp.	Synthetic oil (Fischer-Tropsch process).
Krupp's Reederij en Transportbedrijf N.V., Rotterdam; capitalization 1,000,000 Dutch florins; 100 percent owned by Krupp.	Shipment of foreign ores.
Norddeutsche Huette A.G., Bremen-Oslebshausen; capitalization 4,500,000 RM; 98.5 percent owned by Krupp.	Pig iron production.
Pantena A.G., Glarus, Switzerland; capitalization 325,000 Swiss francs; 100 percent owned by Krupp.	Holding company.
Sieg-Lahn Bergbau G.m.b.H., Giessen; capitalization 6,000,000 RM; 100 percent owned by Krupp.	Holding company and administration of Krupp iron ore mines, especially in Sieg-Lahn area.
Westfaelische Drahtindustrie, Hamm/Westphalia; capitalization 10,000,000 RM; 75 percent owned by Krupp.	Wire products, coiled springs.

II. ARRAIGNMENT

Extract from the official transcript of Military Tribunal IIIA in the matter of United States of America *vs.* Alfried Krupp von Bohlen und Halbach et al., defendants, sitting at Nuernberg, Germany, on 17 November 1947, Judge Anderson presiding.*

THE MARSHAL: The Honorable, the Judges of Military Tribunal IIIA. Military Tribunal IIIA is now in session. God save the United States of America and this Honorable Tribunal.

There will be order in the Court.

PRESIDING JUDGE ANDERSON: Military Tribunal IIIA will come to order.

The Tribunal will proceed with the arraignment of the defendants in Case 10 pending before the Tribunal.

Mr. Secretary General, call the names of the defendants.

THE SECRETARY GENERAL: As the names of the defendants are called, each defendant will stand, answer "Present," and remain standing until told to be seated.

Alfried Krupp von Bohlen und Halbach.

ALFRIED KRUPP VON BOHLEN UND HALBACH: Not guilty. Present.

THE SECRETARY GENERAL: Be seated.

Ewald Loeser.

EWALD LOESER: Not guilty.

THE SECRETARY GENERAL: Answer "Present."

EWALD LOESER: Present.

THE SECRETARY GENERAL: Be seated.

[The roll of the other defendants was then called.]

Your Honors, all defendants are present.

PRESIDING JUDGE ANDERSON: The record shows that the indictment in this case was filed in the office of the Secretary General on 16 August 1947 and a copy thereof was served on each of the defendants in open court on 18 August 1947. We assume that each defendant is familiar with the charges set forth in the indictment and has had the benefit of counsel. At this time we will dispense with the reading of the indictment unless it later appears during the arraignment of the defendants that it is necessary that the same be read.

I shall now call upon the defendants to plead guilty or not guilty to the charges against them. Each defendant as his name is called will stand and speak clearly into the microphone. At

* Judge Anderson was appointed "Presiding Judge" by order of the Military Governor. During the trial he was often referred to as "The President" or "Mr. President." In Court the three judges rotated the function of presiding over particular sessions. Hence, the selections from the transcript reproduced herein will sometimes designate Judge Daly or Judge Wilkins as "Judge Daly, Presiding" or "Judge Wilkins, Presiding."

this time there will be no arguments, speeches or discussions of any kind. Each defendant will simply plead guilty or not guilty to the offenses with which he is charged by the indictment.

THE SECRETARY GENERAL: Alfried Krupp von Bohlen und Halbach.

ALFRIED KRUPP VON BOHLEN UND HALBACH: Not guilty.

PRESIDING JUDGE ANDERSON: Are you represented by counsel before this Tribunal?

ALFRIED KRUPP VON BOHLEN UND HALBACH: Yes.

PRESIDING JUDGE ANDERSON: Was the indictment in the German language served upon you more than 30 days ago?

ALFRIED KRUPP VON BOHLEN UND HALBACH: Yes.

PRESIDING JUDGE ANDERSON: Are you familiar with the charges and specifications contained in the indictment, and have you read the indictment?

ALFRIED KRUPP VON BOHLEN UND HALBACH: Yes.

PRESIDING JUDGE ANDERSON: Are you now ready to plead to the indictment?

ALFRIED KRUPP VON BOHLEN UND HALBACH: Yes.

PRESIDING JUDGE ANDERSON: How do you plead to this indictment, guilty or not guilty?

ALFRIED KRUPP VON BOHLEN UND HALBACH: Not guilty.

[Each of the other defendants was asked the same questions as those asked of the defendant Alfried Krupp, and each defendant pleaded "Not guilty."]

PRESIDING JUDGE ANDERSON: The pleas of the defendants will be entered by the Secretary General in the records of the Tribunal.*

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* The ensuing discussion of the order of trial and certain rules of procedure is reproduced in section III.

III. STATEMENTS OF THE TRIBUNAL, CHIEF OF PROSECUTION COUNSEL, AND DEFENSE COUNSEL ON THE ORDER OF TRIAL AND CERTAIN RULES OF PROCEDURE*

PRESIDING JUDGE ANDERSON: Now, for the benefit of counsel for both the prosecution and the defense, the Tribunal desires to make certain announcements and observations.

Because of the time required for the translation of documents, it will be necessary that they be filed at some date in advance of the conclusion of the trial of the case. For that reason, after the taking of evidence begins, a date will be fixed by this Tribunal, of which you will have ample and due notice, after which no documents will be received. It will be necessary, therefore, that you get your documents in order and be ready to present them early in the trial of the case. We warn you now that when this deadline date has been fixed, no documents will be received thereafter.

The Tribunal is of the opinion that the reading of documents at the time they are introduced in evidence will not be helpful and will consume too much of the Tribunal's time during court hours. All documents admitted in evidence will be read in full and analyzed by the Tribunal prior to final judgment. You will simply identify your documents; both the prosecution and the defense introduce them in evidence, calling the Tribunal's attention to the material portions of the exhibits, and later, of course, you may refer to them in your briefs or final argument.

Counsel will not be expected to, nor will it be necessary to, object to the admission of documents at the time they are offered. Such objections may be made later in the briefs to be filed by counsel, or in final argument.

The Tribunal in its final judgment will exclude from consideration all documents which, in the opinion of the members of the Tribunal, have no probative value. We desire to make this clear to both sides at the outset. We will countenance no unusual or unreasonable delays when the taking of testimony once gets under way. We will grant no long continuances and will recess only for short periods as may seem reasonable and just under all of the circumstances.

Our chief purpose will be to see that this case is heard expedi-

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* The statements reproduced herein were made on two different occasions, just following the arraignment of the defendants on 17 November 1947 (*Tr. pp. 10–14*), and just preceding the opening statement of the prosecution on 8 December 1947 (*Tr. pp. 15–17*). Most of the procedural matters arising in the Krupp trial, however, are not covered by the materials reproduced in this volume. In volume XV, Procedure, a large number of the procedural matters arising in all war crimes trials in Nuernberg will be covered.

tiously and that all of the defendants receive a fair trial, in accordance with our American concepts of justice.

The Tribunal desires to recess until Monday, 1 December, 2 weeks from today. Is there any reason why both sides cannot be ready to proceed at that time?

GENERAL TAYLOR: Your Honors, the prosecution had planned to be able to proceed at that time and is most reluctant to ask for any further delay. However, about 10 days ago, the chief counsel in Case 5, the Flick Case,[1] pending before Tribunal IV, became seriously ill and incapacitated for further participation in that case. Unfortunately, for that reason it has become necessary for certain counsel in this case to pinch-hit in connection with the closing argument in the Flick Case. The evidence in that case has closed and all that remains are the closing arguments by counsel. Those arguments are scheduled by Tribunal IV for the week of 24–29 November, and the arguments for the prosecution will be made on 24 November.

I am very much afraid that several counsel in this case—including myself—will be completely occupied with that Flick argument until 24 November, and I feel that we would need approximately 2 weeks thereafter to prepare adequately the opening in this case.

Accordingly, the prosecution respectfully requests that the opening date be set for either Monday, 8 December or Tuesday, 9 December. I make that suggestion the alternative. The prosecution can be ready to proceed on 8 December. An opening on Monday, however, imposes quite a burden on translation and reproduction facilities, and it will require a great deal of overtime and week end work. If the Tribunal deems it necessary from the standpoint of expedition, I am sure that all members of the staff will willingly cooperate to work on the week end and bring that about.

Accordingly, the prosecution requests that the opening be postponed to either 8 or 9 December.

DR. KRANZBUEHLER (speaking for the defense):[2] The defense has no objections to the proposal of the prosecution that the proceedings be postponed to 8 December or, better, to 9 December, for the time being, but I would like to use this proposal of the prosecution in order to submit the wishes of the defense concerning what can be done in this interim period in order to guarantee a faster continuance of the proceedings.

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[1] See United States *vs.* Friedrich Flick, et al., Case 5, volume VI.

[2] In addition to his capacity as principal defense counsel for the defendants Alfried Krupp and Max Ihn, Dr. Kranzbuehler often acted as the general spokesman for all defense counsel on matters of common interest.

The Tribunal has just announced that the documents are not to be read in the proceedings in the main but are only to be identified. The center of gravity of the proceedings will therefore lie to a large extent outside the courtroom, and the defense counsel will have to be able to prepare in good time for these documents in order to be in a position to obtain their own evidence.

The prosecution has already started to make accessible some documents to the defense—about 130 of them so far. In view of the fact that the prosecution will no doubt submit more than a thousand documents altogether, this is a very small number.

The defense is at present quite unable to prepare in a suitable manner because, in our view, the prosecution has not adhered to the proceedings laid down in Ordinance No. 7.* I need only give the Tribunal one or two examples to show this.

Under count one, crimes against the peace, all twelve defendants are charged—but in the specifications under count one only nine defendants are mentioned by name. Under count two, spoliation, ten defendants are charged but only the names of three are specified. It is similar, under count three, so-called slave labor. As a result we don't even know at present which of the defendants are to be charged with any definite crimes.

A second point which is particularly noticeable is the complete lack of restriction of time under count one of the indictment. The defendants are charged with crimes against the peace at a time before 8 May 1945—but how far back this period goes is not mentioned. The only date which I have been able to establish is the year 1814, when the first generation of the Krupp family was active. With such an unlimited period of time we do not know where to start with our work.

We would, therefore, like to ask the Tribunal—and I suggest that the prosecution be charged with specifying the indictment in such a way that the various crimes charged to the individual defendants are recognizable to us in good time before the opening statement.

We would like to have three copies of these documents for each defendant because only if we have that number can we discuss them properly with the defendants and, at the same time, have further evidence of our own collected by our assistant defense counsel.

I would like to submit a second request. The entire material of the Krupp files has been confiscated. This is probably some-

* Military Government Ordinance No. 7 and a number of other basic enactments or agreements are reproduced in the introductory parts of Volumes I, III, IV, VI, X, and XII of this series. These volumes are the first volumes of each subject unit as shown on Pref. p. IV.

thing like several thousand documents.* We cannot prepare the defense unless we are in possession of this material. We recognize the fact that up to now the prosecution has made some of the documents available to us, something like 150 in fact, but we ask that the prosecution be instructed to make all documents available to us which they confiscated, also in good time before the opening statement, which contains material which might become of interest for these proceedings.

I would expressly like to draw the Tribunal's attention to the fact that only in this way will we be able to cooperate in expediting proceedings in the way that the Tribunal wishes.

With reference to the Tribunal's conclusions just announced, I would like to reserve the right, whether these decisions in any way affect the rights of the defendants, to discuss these questions with my colleagues and possibly make written application through the proper channels to the Tribunal.

GENERAL TAYLOR: May it please the Court, I think there will be no substantial difficulty on our part in meeting most of Dr. Kranzbuehler's requests. As a matter of fact, a room for defense counsel, in which we made available a great many of the Krupp files, was opened on 13 September, several weeks ago, and we are furnishing to them the documents that we propose to introduce in evidence as rapidly as they can be processed; that is, duplicated, translated, and so forth. The first five document books that we plan to offer in evidence will be ready for delivery to the defense as soon as they are bound. As to the request for three copies of documents, I would like to consult with the paper supply before making a definite answer on that. But in all other respects I think there is very little difficulty.

A certain few documents, of course, the prosecution may withhold for rebuttal or cross-examination, but certainly the vast majority of the documents we propose to introduce can be made available to the defense prior to the opening date of 8 December, which we have suggested.

PRESIDING JUDGE ANDERSON: The request for additional copies of the documents will be referred to the Secretary General, and he will undoubtedly work out something that is satisfactory.

Military Tribunal IIIA will be in recess until Monday, 8 December, next.

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* Dr. Kranzbuehler refers to several thousand Krupp documents brought to Nuernberg by the prosecution in connection with the war crimes trials. During the course of the trial these documents were made available to the defense. Moreover, the defense procured and offered in evidence Krupp documents discovered by defense representatives or procured, upon application by the defense, pursuant to arrangements made by the Secretary General of the Tribunals. (See the statement of Dr. Wolf, counsel for the defendant Lehmann, in the discussion with the Tribunal which arose during the course of the opening statement for the defendant Pfirsch below in section IV G.)

THE MARSHAL: The Tribunal will be in recess until 8 December.
(The Tribunal adjourned until 8 December 1947, at 0930 hours.)

* * * * * * *

PRESIDING JUDGE ANDERSON: Counsel for the prosecution and Dr. Kranzbuehler, a representative of defense counsel, at their joint request, met with the members of the Tribunal in an informal conference on 2 December 1947, for the purpose of discussing certain aspects of the announcement made by the Tribunal on the day the defendants were arraigned, as well as certain other matters. As a result of that conference, the following statement is made:

1. With respect to fixing the date after which no documentary evidence will be received, it has come to our attention that in some of the cases heretofore tried a large mass of documentary evidence was introduced on the last day of the trial, with the result that the sitting Tribunal could not begin consideration of their judgment until the documents were translated. There was thus caused considerable delay, during which the members of the Tribunal were necessarily idle. This Tribunal intends to prevent that situation if it can be done without prejudice to any substantial right of the defendants, and to that end made the announcement about which counsel inquired. If, as the trial progresses, the plan announced still seems feasible, it will be carried out.

2. With respect to the necessity of objections to the admission of documents at the time they are offered in evidence, it was intended to give notice that in order to expedite the trial it would not be necessary to object to documentary evidence on the ground that it lacked the requisite probative value; that in their final judgment the Tribunal would consider and determine that question with respect to all documentary evidence, without regard to whether specific objection had been made to its introduction, but that both prosecution and defense would have a full opportunity to be heard upon all such questions in the final arguments and briefs. The original statement is amplified to the extent of making clear that objections to evidence on other grounds may be made at the time the evidence is offered.

3. As to the request of the representative of the defense to clarify the matter of saving their rights when cross-examination of a witness is waived, the members of the Tribunal have considered this question and announce the following as a general rule: Where a witness testifies orally from the witness stand, he shall be cross-examined at the conclusion of the direct examination. When it is desired to cross-examine an affiant whose affi-

davit has been admitted in evidence, it shall be done following the reading of the affidavit,* if the affiant is then available. If the affiant is available and not cross-examined at that time, whether the Tribunal will require him produced for cross-examination at some subsequent date will depend upon the particular circumstances of each case, including a reasonable showing as to why the affiant was not cross-examined at the time he was available for the purpose. This ruling is made in anticipation of the probability that some of the affiants will have come from a distance in order to be available for cross-examination, and the ruling, of course, presupposes that in every instance where the prosecution offers an affidavit in evidence, a copy thereof will have been furnished counsel for the defense at least 24 hours prior to the time the affidavit is offered. Where the defense desires to cross-examine an affiant and he is not available at the time his affidavit is introduced, he must be produced for that purpose before the defense will be required to proceed with its case. Otherwise, the affidavit will not be considered by the Tribunal in reaching their final conclusion on the merits.

* In practice, the contents of affidavits offered in evidence ordinarily were not read into the record, but rather were made a part of the record by being offered in evidence as an exhibit. Thereafter, if the affiant was called for cross-examination, the affidavits were treated as if the affiant had given the statements contained therein during direct examination.

IV. OPENING STATEMENTS OF THE PROSECUTION AND THE DEFENSE

A. Opening Statement for the Prosecution*

BRIGADIER GENERAL TELFORD TAYLOR: Of all the names which have become associated with the Nuernberg trials, I suppose that none has been a "household word" for so many decades—indeed for nearly a century—as that of Krupp. Today the name "Krupp" is freighted with associations and preconceptions. For some people it is the name which heads the list of arms-makers—Schneider-Creusot, Vickers, Skoda, and others—who, it is said, stir up wars and, with a zeal which transcends mere patriotism, arm all the legions of Mars with terrible impartiality. For others, the name of Krupp weighs level in the balance with the sum total of von Kluck's, and Kluge's, and Kuechler's, and Kleist's, and all the gallery of tight-lipped German war lords; so regarded, Krupp and the German militarists are the indestructible common denominator of Germany's murderous and obstinately repeated lunges at the world's throat.

Just because "Krupp" is so meaningful and historic a name, the true basis and purpose of this case are not unlikely to be misunderstood. We do not seek, in this case, to level any attack against the business of making arms as such. We are not trying to prove that all wars derive from the sinister machinations of armament manufacturers and their sales agents. The armorer's trade is no more inherently unlawful than that of the soldier or diplomat; all of these professions revolve around war and statecraft, but that does not make them criminal *per se*.

Furthermore, the individual defendants in this case are not being prosecuted for the sins of others, or because the name "Krupp" has acquired over the years a sinister sheen. The men in the box are not symbols, nor are they charged as representatives of other men. It is true, of course, that the charges in this case arise out of acts committed by or in the name of the Krupp firm. And it is true that most of the crimes with which the defendants are charged were committed by them in their capacity as Krupp officials. But no man in the dock was named in the indictment merely because of his association with the Krupp firm; each defendant was named because the prosecution believes, and is confident that it can prove, his personal criminal responsibility.

We are not dealing in this case with men who rose to power by riding the crest of the Nazi wave. That most of the defendants

* Opening statement is recorded in mimeographed transcript, 8 December 1947, pp. 18–113.

were members of the Nazi Party is a significant fact, but it is not part of the basic framework of this case.

Nazism was, after all, only the temporary political manifestation of certain ideas and attitudes which long antedated nazism, and which will not perish nearly as easily. In this case, we are at grips with something much older than nazism; something which fused with Nazi ideas to produce the Third Reich, but which has its own independent and pernicious vitality.

We cannot, therefore, comprehend the actions or judge the guilt or innocence of these defendants without some familiarity with the setting in which those acts occurred. And that setting is the Krupp firm and family enterprise—its plants, its techniques and, most of all, its history and traditions. We do not indict these defendants because of the history of the Krupp firm, but that history will shed much light on the motives which led the defendants to do the acts with which today they are charged.

In opening a case of such historic import, there is a natural impulse to dramatize the occasion by ringing all the charges on the name "Krupp," which was described 2 years ago by Mr. Justice Jackson as "*** the focus, the symbol, and the beneficiary of the most sinister forces engaged in menacing the peace of Europe." *

But in fact our task is far too grave and serious to warrant any indulgence in forensics. The pages of Krupp history need no underlining; we have not indicted these men to make a show, but because we believe that the evidence will prove them to be criminals. We will postpone any further characterization or general comment, and proceed at once to the charges.

COUNT ONE—PLANNING, PREPARATION, INITIATION AND EXECUTION OF AGGRESSIVE WARS

The acts and events on which the charges in count one are based began nearly 30 years ago. The earlier history of the Krupp firm is important only as background, and we will sketch it in at this time in the briefest manner only for the purpose of clarifying the scope and nature of the Krupp firm at the end of the First World War, when the story of this case begins.

A. HISTORICAL BACKGROUND

The firm of Fried. Krupp was founded in 1811 as a small steel foundry in the city of Essen, in the Ruhr. The firm retained its family character throughout the early part of the 19th century;

* Trial of the Major War Criminals, International Military Tribunal, Nuremberg, 1947, vol. I, p. 134.

when Friedrich Krupp died in 1826, he was succeeded by his eldest son, Alfred. Alfred Krupp was the sole owner and manager of the firm for over 60 years, until his death in 1887, and it was under his management that the firm grew from an obscure foundry into the largest and most notorious armament enterprise of all time. Krupp cannon construction dates from just over a century ago, from 1844, when the Prussian military authorities ordered an experimental one-ton gun of cast steel, and the first complete shop for the manufacture of guns was built in 1861. Krupp fame and fortune were derived basically from the unification of Germany, the German wars against Denmark and Austria, and the Franco-Prussian War of 1870. The victorious German armies were extensively armed with Krupp guns, and after the Franco-Prussian War, Alfred Krupp was commonly referred to as the "cannon king."

But if it was as a gunsmith that Alfred Krupp attained worldwide fame, nevertheless, he did not allow his enterprises to remain limited to armament manufacture alone. The Krupp iron and steel mills participated extensively in the early construction of German railroads. With the development of the Bessemer process, steelmaking became a big business. In order to give his enterprises their own source of raw materials, Krupp acquired extensive coal mines and iron ore beds. Later on, in furtherance of his export interests, Krupp acquired transport ships and docking interests in the Netherlands. After the Franco-Prussian War, Krupp became a large supplier of railroad equipment and other items used to build the railroad nets in the United States.

In 1887, the Krupp inheritance passed to Friedrich Alfred Krupp. The rapid development and expansion of the enterprises continued. New factories were built, and new resources of coal and iron were purchased in Lorraine and in Germany proper. Krupp's principal German competitor in the field of armor plate—the Gruson Works—was bought out and absorbed, and with the acquisition of the Germania shipyards at Kiel, Krupp entered the shipbuilding business on a large scale.

Although these were years of peace, Krupp continued to devote great emphasis to the armament business. Questions of design and scientific research were given great attention and fostered by capital investment. Krupp's own firing ranges for the testing of its guns and projectiles were greatly expanded. And, through the Germania shipyards, Krupp became a vital figure in the German Government's policy of naval expansion, which came into full flower after the dismissal of Bismarck by Wilhelm II shortly before the turn of the century.

Upon the death of Friedrich Alfred Krupp, the last of the male

line, in 1902, the proprietary management of the firm passed to his widow, and the heiress was his 16-year-old daughter, Bertha Krupp. Pursuant to Friedrich Alfred's will, the Krupp firm at this time was reorganized into a private limited liability company, Fried. Krupp A.G., with a stock capitalization of 160,000 shares valued at 1,000 marks each. All but four of the shares were held by Bertha Krupp, and the remaining four, distributed only in order to comply with legal requirements, were kept under careful control. In 1906, Bertha Krupp married Dr. Gustav von Bohlen und Halbach; the Emperor, Wilhelm II, conferred upon the bridegroom the right to use the name "Krupp."

Expansion of the Krupp enterprises continued right up to the outbreak of the First World War. Immediately after Friedrich Alfred Krupp's death, his widow built a huge new steel plant at Rheinhausen, on the left bank of the Rhine about 20 miles from Essen. Krupp ceased to be purely a specialist in the manufacture of arms and special steel products and took its place in the front rank of the great German steel producers. The Germania shipyards hummed with activity as Krupp built a large part of the German high seas fleet. In 1906, Krupp built the first German submarine.

During the First World War, the Krupp firm, needless to say, was Germany's principal arsenal. It was no accident that in 1916 when General Ludendorff asked two outstanding leaders of German industry to "join his train" to discuss war production, the two men invited were Gustav Krupp von Bohlen and Carl Duisberg of I.G. Farben. Guns, shells, and armor plate poured out of the Krupp factories. Warships and submarines were built, armed, and fitted at the Germania shipyards. Together with the other leading steel plants, Krupp supplied the finished and semi-finished steel for building, transport, and a variety of other industrial uses. The laboratory of war was an enormous stimulus to design and research. As a Krupp document tells us (*NIK–9041, Pros. Ex. 146*) :*

> "The Armistice of 1918 found the Krupp artillery designing bureaus and the armament workshops at the peak of their efficiency and in full activity.
>
> "As late as 8 November 1918, governmental orders had been placed and instructions had been given for the shipment of artillery equipment to the front. In addition, numerous newly developed guns were being designed and in the course of being manufactured."

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* Parts of this document are reproduced in section VIB 2.

B. THE VERSAILLES TREATY

The Armistice which ended the First World War did not, surprisingly enough, end Krupp's armament activities completely. Krupp continued to repair and recondition certain guns, and to complete the manufacture of new guns which were almost ready at the end of the war. Krupp records show that between the Armistice and July 1919, 238 guns were repaired, and 315 new guns were manufactured. Even after July 1919 the Krupp firm continued to work on one or two types of new guns until the arrival of the Inter-Allied Control Commission at the Krupp plants in 1920.

In fact, Germany's defeat in the First World War, in and of itself, would probably not have radically affected Krupp's armament activities, but the disarmament provisions of the Treaty of Versailles were quite another matter. These provisions confronted the Krupp managers with a major question of policy—whether to convert the Krupp enterprises into a steel combine, similar to those in Germany and other countries, with its principal foundations in a peacetime economy, or whether to make special efforts to preserve Krupp's preeminent position in the armament field.

The Treaty of Versailles was signed on 28 June 1919. The provisions which were of special concern to Krupp, and are of special interest in this case, are those embodied in part V entitled "Military, Naval, and Air Clauses." By Article 160 of the Treaty, the German Army was limited to ten divisions consisting of not more than 100,000 men—the so-called "100,000 man Reichswehr." Under the express language of Article 160, the exclusive purpose of the authorized German Army was "the maintainence of order within the territory and the control of the frontiers." But the provision of most fundamental importance to Krupp was Article 168 relating to the manufacture of arms (*NIK–12160, Pros. Ex. 128.*),* which stated in part:

> "The manufacture of arms, munitions, or any war material shall only be carried out in factories or works the location of which shall be communicated to and approved by the governments of the Principal Allied and Associated Powers, and the number of which they retain the right to restrict.
>
> "Within three months from the coming into force of the present Treaty, all other establishments for the manufacture, preparation, storage, or design of arms, munitions, or any war material whatsoever shall be closed down."

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* Parts of this document are reproduced below in section VIB 1.

Later provisions of the Treaty are also of great importance. Article 170 prohibited the importation of arms and munitions into Germany, and at the same time forbade the manufacture of arms within Germany for export to foreign countries. Article 171 flatly prohibited the manufacture in Germany of tanks, armored cars, and "all similar constructions suitable for use in war***." Article 181 stringently limited the size of the German Navy, and Article 190 specified the rate at which the authorized naval units could be replaced. Article 191 forbade Germany to construct or acquire any submarines whatsoever, even for commercial purposes.

The above and other comparable provisions of the Versailles Treaty were to be enforced by Allied Control Commissions.

Article 208 of the Treaty set forth that (*NIK–12160, Pros. Ex. 128.*) :*

> "The Military Inter-Allied Commission of Control will represent the governments of the Principal Allied and Associated Powers in dealing with the German Government in all matters concerning the execution of the military clauses.
>
> "In particular it will be its duty to receive from the German Government the notifications relating to the location of the stocks and depots of munitions, the armament of the fortified works, fortresses, and forts which Germany is allowed to retain, and the location of the works or factories for the production of arms, munitions and war material and their operations.
>
> "It will take delivery of the arms, munitions, and war material, will select the points where such delivery is to be effected, and will supervise the works of destruction, demolition, and of rendering things useless, which are to be carried out in accordance with the present Treaty.
>
> "The German Government must furnish to the Military Inter-Allied Commission of Control all such information and documents as the latter may deem necessary to ensure the complete execution of the military clauses, and in particular all legislative and administrative documents and regulations."

Under Article 168 of the Treaty, the Allied Nations subsequently determined that Krupp should be the firm licensed for the production at Essen of guns with a caliber greater than 17 centimeters. No other type of armament manufacture was permitted to Krupp. Smaller guns were to be manufactured by the Rheinmetall plants at Duesseldorf; ammunition, and other weapons and war material, were licensed to still other firms. The lists so prescribed by the Allies were accepted by the German Govern-

* Ibid.

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ment by its announcement of 15 July 1921. In the meantime, the Military Inter-Allied Control Commission, headed by the French General Nollet, established itself in Berlin, and on 29 May 1920, representatives of the Commission, headed by the English Colonel Leverett, arrived at Essen, at the Krupp plant.

The establishment of the Control Commission and the arrival at the Krupp Essen plants of Colonel Leverett's group signalized the opening of a long and bitter struggle between the Control Commission on the one hand, and Krupp, secretly supported and encouraged by the German Government, on the other hand. And it is in this setting that the chain of circumstances and course of conduct charged as criminal in count one really begin.

C. "GERMANY MUST AGAIN FIGHT TO RISE"

We have mentioned that the provisions of the Treaty of Versailles and the implementation of these provisions through the Inter-Allied Commission of Control presented the Krupp managers with a very fundamental problem of policy relating to the future of the Krupp firm. None of the defendants in this case participated in the solution of this problem; ultimate authority to settle that question resided in Bertha Krupp and her husband, Gustav Krupp von Bohlen, who actually exercised the proprietary management. Gustav Krupp von Bohlen still survives, but is mentally and physically incapacitated. Three of the defendants in this case were associated with the Krupp firm at the time in question. The defendant Pfirsch was first employed by Krupp in 1902, and the defendants Janssen and Eberhardt joined just after the First World War, in 1918 and 1919, respectively. None of these three defendants occupied a sufficiently important position to justify charging him with responsibility for decisions taken before 1920, but all three of them, and others among the defendants, participated actively in events which flowed from and were a consequence of this early decision and which took place some time before the advent of Hitler's dictatorship.

In approaching this matter, we may well bear in mind that the provisions of the Versailles Treaty, whether wise or unwise, were legally binding within Germany. This was so not only as a matter of international law, but as a matter of German domestic law. A memorandum written in January 1927 by the Legal Division of the German Defense Ministry stated (*NIK–12057, Pros. Ex. 135*),* I quote:

> "Furthermore, the Peace Treaty of Versailles is also a law of the Reich, and by reason of this it is binding on all members of

* Ibid.

the Reich at home. This commitment ranks even superior to the provisions of the constitution of the German Reich, since Article 178, paragraph 2, second sentence of this constitution, provides that: 'The provisions of the Peace Treaty signed on 28 June 1919 in Versailles remain unaffected by the Constitution.'

"The members of the Reich government who participate in the preparations for mobilization of a Wehrmacht exceeding that sanctioned by the Treaty would make themselves guilty of an intrastate violation of the Peace Treaty promulgated as a Reich law, and, as a result of this, they could be indicted before the State judicial court for culpable violation of their official duties under Article 59 of the constitution at the behest of the Reichstag."

The same conclusion was reached in a memorandum written a few weeks later within the Armaments Office of the Reich War Ministry. This memorandum stated that "The Treaty of Versailles has been made valid as a law in Germany." These conclusions were reinforced when the German Reichstag enacted the "Law on implements of war" on 27 July 1927.

The question which confronted the Krupp management as a result of the Versailles Treaty is very well summarized in the report of the Direktorium of Krupp covering the year 1937–1938; that is the year in which the defendant Loeser joined the Krupp firm as a member of the Direktorium. The report in question states (*NIK–1284, Pros. Ex. 125*),* I quote:

"With the end of the business year 1937–1938, 20 years have passed since the World War. Its unfortunate ending had fateful effects for us. The 'dictates' of Versailles prohibited us from manufacturing armaments and army equipment almost completely and demanded the destruction of machines and installations necessary for their manufacture. Under the supervision of the Inter-Allied Control Commission, approximately 10,000 machines, presses, furnaces, cranes, and assembly shafts, over 800,000 gauges, die blocks, devices, and special work tools, as well as the installations of the firing ranges in Essen and Meppen, were destroyed. Our firm had to decide whether it wanted to renounce, for all time, the production of war material and continue the enterprise on the basis of the coal mines, the refined steel works in Essen and the foundry in Rheinhausen, while discharging all superfluous workers and employees, or whether it would continue employing its personnel with

* Ibid.

a new production program and keep the shops operating with the production of peacetime products."

The same report gives the answer to this problem, and sets forth the reasons for it (*NIK–1284, Pros. Ex. 125*).[1]

"In spite of numerous doubts and contrary to the advice of outside experts, it decided, as trustee of a historical inheritance, to safeguard the valuable experiences, irreplaceable for the armed strength of our nation, and through constant close ties with the works members to keep up the shops and personnel in readiness, if the occasion should arise, for armament orders later on. With this view in mind, we chose objects for the new program of manufacture on which the personnel could obtain and improve their experience in the processing and refining of material, even though the manufacture and sale of these products partly entailed big losses. The change-over was made more difficult by the occupation of the Ruhr and its effects. But, after the inflation, the reserves built up by the very cautious evaluation of the property in the Goldmark balance, the proceeds from the coal mines, the Essen steel works and the foundry in Rheinhausen, as well as the renunciation of the payment of dividends, made it possible to overcome the difficulties of this period of time so full of losses."

And, finally, Loeser and the other Krupp directors were able to look back, after 5 years of the Hitler dictatorship and 1 year before the outbreak of the war against Poland, and view with immense satisfaction the decision taken in 1920 (*NIK–1284, Pros. Ex. 125*),[2] I quote:

"When, in 1933, we were again called upon to manufacture war material in large quantities, we were immediately ready to do so, and in addition, we were able to let other firms profit from our experiences, safeguarded and newly acquired by the use of our capital. Workshops which had not been in operation for years or had only been operating on an insufficient scale were again put into operation, and after a short preliminary stage, were working at capacity. Recognitions for holding out and rapidly going to work fill us with pride. They prove that the sacrifices of the past safeguarded great values for our people.

"After having abandoned the production of all objects which were only meant to keep our personnel and our plants occupied,

[1] Ibid.
[2] Ibid.

our production program today is a carefully balanced whole in which peace and war production are organically united."

The prosecution is not, therefore, indulging in empty chatter when it speaks of the importance of the Krupp tradition, and the light which Krupp history throws on later events. The same viewpoint is reflected in an article written by Gustav Krupp von Bohlen in 1941. After speaking of himself as "the trustee of an obligatory heritage," Gustav Krupp wrote (*D–94, Pros. Ex. 124*) :*

"At that time (1919) the situation appeared almost hopeless. At first, it appeared even more desperate if one was not—as I was myself—firmly convinced that 'Versailles' did not mean a final conclusion. Everything within me—as within many other Germans—revolted against the idea that the German people would remain enslaved forever. I knew German history only too well, and just out of my experiences in the rest of the world I believed to know the German man; therefore I never doubted that, although for the time being all indications were against it—one day a change would come. How, I did not know, and also did not ask, but I believed in it. With this knowledge however—and today I may speak about these things and for the first time I am doing this extensively and publicly—as responsible head of the Krupp works, consequences of the greatest importance materialized. If Germany should ever be reborn, if it should shake off the chains of 'Versailles' one day, the Krupp concern had to be prepared again. The machines were destroyed, the tools were smashed, but the men remained; the men in the construction offices and the workshops who in happy cooperation had brought the construction of guns to its last perfection. Their skill had to be maintained by all means, also their vast funds of knowledge and experience. The decisions I had to make at that time were perhaps the most difficult ones in my life. I wanted and had to maintain Krupp, in spite of all opposition, as an armament plan—although for the distant future."

A further citation indicates that Krupp did not make this decision for patriotic reasons alone, or at least that he was anxious to be recompensed for the losses which the firm incurred as a result thereof. This observation is made in no spirit of criticism; certainly the desire to make a profit is far less dangerous than the willingness to arm to the teeth the legions of a ruthless and aggressive dictator and launch upon the world a cataclysmic war.

* Ibid.

This next document was prepared by the Krupp firm in July 1940, and was transmitted to the High Command of the German Armed Forces; the details therein were prefaced by the following general observations (*NI–764, Pros. Ex. 467*),[1] I quote:

> "The following details * * * are to provide the justification for the increase in sales prices which the firm Krupp needs for its manufacture, as this increase in sales prices is the only means by which Krupp is enabled to maintain the highest technical standard in its output * * *.
>
> "Without government orders, and merely out of the conviction that one day Germany must again fight to rise, the Krupp firm has, from the years 1918 to 1933, maintained employees and workshops and preserved their experience in the manufacture of war materials at their own cost, although great damage was done to their workshops through the Versailles Treaty, and employees and machines had in part to be dispersed. The conversion of the workshops to peacetime production involved losses, and as at the same time, the basic plan of a reconversion to war production was retained, a heterogeneous program was the result, the economic outcome of which was necessarily of little value; but only this procedure made it possible at the beginning of the rearmament period to produce straight away heavy artillery, armor plates, tanks, and such like in large quantities. The material losses which the Krupp firm is bearing amount to several hundred millions of marks."

Finally, it must not be thought that Krupp stood alone or unsupported in the decision taken by his firm. As we will see, the chiefs of the German Army and Navy played exactly the same game and worked very closely with Krupp. So did various leading political figures of the Weimar Republic. Joseph Wirth, Chancellor of the German Republic in 1921 and 1922, wrote a letter to Gustav Krupp in 1940, in which the following appears (*NIK–8575, Pros. Ex. 132*),[2] I quote:

> "* * * I recall with satisfaction the years of 1920 till 1923, when together with Mr. Direktor Dr. Wiedtfeld both of us were able to lay new foundations for the development of the German armament technique through your great and most significant firm.
>
> "Mr. Reich President von Hindenburg, as is well known, had been informed of it. His reaction also was very creditable though nothing of this has as yet been disclosed in public.

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[1] Ibid.

[2] Reproduced in section VIB 1.

"I also write down these lines to add them to my files, which already contain the well-known letter of Dr. Wiedtfeld of 1921, stating that your most respected firm was assured of 10 years' service for the government on account of my initiative as the Reich Chancellor and Reich Minister of Finance, by releasing considerable means of the Reich for the preservation of German armament technique.

"I report this matter in a purely personal and confidential way without thinking of making these lines available to the public. The fact being that, approximately 2 years ago the Reich government made it known through the Ambassador in Paris, that any publication about previous preparations for the recovery of national freedom would be discouraged."

I come now to Krupp's violations and evasions of the Versailles Treaty under the Weimar Republic; that is, from the period 1919 to 1933.

D. KRUPP'S VIOLATIONS AND EVASIONS OF THE VERSAILLES TREATY UNDER THE WEIMAR REPUBLIC (1919–1933)

We have seen that Gustav Krupp and the other Krupp managers decided, after the Treaty of Versailles, that they would maintain Krupp's potential as an armament factory by retaining their skilled personnel, and utilizing these workers for "a new program of manufacture in which the personnel could obtain and improve their experience in the processing and refining of material." This was merely one of a number of stratagems which Krupp adopted to frustrate the purpose of the disarmament provisions of the Versailles Treaty, in preparation for the day when "Germany must again fight to rise." Krupp's attitude toward the Treaty and toward the Allied officers charged with its enforcement is also reflected in Gustav Krupp's article written in 1942 (*D–94, Pros. Ex. 124*),* I quote:

"Without arousing any commotion, the necessary measures and preparations were undertaken. Thus to the surprise of many people, Krupp began to manufacture products which really appeared to be far distant from the previous work of an armament plant. Even the Allied snooping commissions were duped. Padlocks, milk cans, cash registers, track repair machines, trash carts and similar 'small junk' appeared really unsuspicious and even locomotives and automobiles made an entirely 'civilian' impression.

* Parts of this document are reproduced in section VIB 1.

Any successes which the officers of the Control Commission achieved were merely the occasion for bitter resentment and hostility on the part of the Krupp officials. A history of Krupp's artillery designing activities during these years, written by the artillery designing department of the Krupp firm, tells us (*NIK–9041, Pros. Ex. 146*)[1], I quote:

> "The uncouth, irreconcilable attitude, especially on the part of the French members of the Control Commission, as well as a widespread network of spies and denunciators made sure that the provisions were carried through completely. One of the higher works' officials had to be discharged because through the exchange of a barrel number he had tried to save a good gun barrel for Germany. Thus the hands of the firm were completely tied and not even the slightest deviation from the rigid regulations was possible.
>
> "The concluding report of the Inter-Allied Control Commission was finally signed on 16 March 1926. The Commission departed. Although this did not yet mean the end of spying—entailing the danger of international complications or of seeing the works closed, and its workers losing their livelihood—this meant, nevertheless, an important step on the road towards freedom."

We shall not attempt at this time any exhaustive recapitulation of the numerous respects in which the Krupp firm secretly flouted and violated the Treaty of Versailles during the era of the Weimar Republic. As examples which are sufficient for present purposes, we will discuss briefly, in the naval field, the unlawful construction of submarines and, on land, the unlawful design and construction of guns and tanks.

With permission of the Court, Mr. Joseph Kaufman, deputy chief counsel, will continue reading the statement.

PRESIDING JUDGE ANDERSON: Very well.

1. Submarines

MR. KAUFMAN: As we have noted, Article 191 of the Treaty of Versailles categorically forbade the construction or acquisition by Germany of any submarines whatsoever. In 1937 the German Navy compiled a secret document entitled "The Fight of the Navy against Versailles." (*C–156, Pros. Ex. 139*)[2] This document throws much light on the circumstances which made possible the rapid development of the German U-boat arm after Hitler came to power.

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[1] Ibid.

[2] Ibid.

It appears from this document that in 1920 Krupp's Germania shipbuilding company, with the approval of the German Admiralty, sold its blueprints of projected German submarine types to Japan, and that Japan adopted these blueprints as the basis for the construction of its own submarine cruisers. The construction of submarines in accordance with these blueprints, at the Kawasaki shipbuilding company, was carried out under the supervision of German submarine constructors and under the personal direction of the chief submarine constructor of the Germania shipyards, Dr. Techel. A German naval officer, with extensive experience in submarine warfare, participated in the trial runs of these submarines and, of course, reported his observations to the German Admiralty.

A much more important step was the establishment in 1922 of a dummy Dutch company called the "Ingenieurkantoor voor Scheepsbouw" (commonly abbreviated I.v.S.). A Krupp memorandum (*NIK–12294, Pros. Ex. 140*)[1] written just before the establishment of this company states that its purpose was "the preservation and further implementation of German U-boat experiences," and makes it clear that the connection of this company with the Krupp concern (through the Germania shipyards) was kept strictly secret in order to conceal the obvious breach of Articles 168, 170, and 179 of the Treaty of Versailles. The German Navy's secret history, referred to above, (*C–156, Pros. Ex. 139*)[2] shows that this company was established in Holland with the approval of Admiral Behnke of the German Admiralty, and that the purpose of the I.v.S., from the standpoint of the Admiralty, "was to keep together an efficient German submarine office and, by practical work for foreign navies, to keep it in continuous practice and on top of technical developments."

This cloaked branch of the Krupp shipyards fulfilled its purpose highly efficiently; it not only engaged in submarine research and design but actually built submarines for sale to other governments. Two submarines were built and sold to Turkey before 1927. Other submarines were built in Spain and Finland in accordance with designs developed by the I.v.S. in Holland.

The layman might think that this clandestine fooling with a few submarines in Japan, Holland, and Finland amounted to very little in terms of modern naval warfare. The German Navy, however, in its secret history, credited these projects with having made possible "astonishing facts" that, and I quote again (*C–156, Pros. Ex. 139*) :[3]

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[1] Ibid.
[2] Ibid.
[3] Ibid.

"After the carrying-out of the Armistice conditions and the signing of the Versaille Treaty, any practical continuation of the work in the field of the submarine arm was impossible in Germany. In spite of that, it was possible to put the first submarine into service only 3½ months after the restoration of military sovereignty declared on 16 March 1935, that is on 29 June 1935, and then at intervals of about 8 days to put new submarines continuously into service, so that on 1 October 1935, 12 submarines with fully trained personnel were in service.

"On 7 March 1937 during the critical moment of the occupation of the demilitarized zone on the western border, 18 submarines in service were available, 17 of which had already passed the test period and in case of emergency, they could have been employed without difficulties on the French coast up to the Gironde."

It becomes more apparent how deeply indebted Hitler and the German Wehrmacht were to Krupp and the I.v.S. I now come to—

2. Artillery and Tank Design and Construction

Gustav Krupp was not the only man who decided to undermine the Treaty of Versailles and prepare for a resurgence of German armed might. There was another man, not so well known to the world at large—Generaloberst [General] Hans von Seeckt, Chief of the German Army Command from 1921 to 1926.

Late in November 1925 "His Excellency" General von Seeckt paid a 5-day visit to the Ruhr primarily to confer with Gustav Krupp von Bohlen and to inspect the Krupp plants. The Krupp directors described to General von Seeckt the destruction caused by the Inter-Allied Military Control Commission and calculated the damages at 105,000,000 gold marks. General von Seeckt noted the "readiness of Krupp to oblige the military administration in order to gain experience in designing" armaments. The General learned about the close relations between Krupp and the Bofors firm in Sweden. The possibility of constructing a model of a "German tank" was also touched upon.

These ceremonious but secret discussions between Gustav Krupp von Bohlen and General von Seeckt were concerned with a sustained and deliberate program and conspiracy, to which the Krupp directors and the German Army High Command were the principal parties, to maintain Krupp artillery designs and gun production potential at the highest possible level, in spite of the provisions of the Treaty of Versailles. The history of this conspiracy is set forth in a long document compiled in 1943 by the artillery department of Fried. Krupp A.G. which contains a

detailed account of the development of army guns by Krupp from 1918 to 1933.

Just as in the case of submarines, Krupp's first move was to secure foreign basis for experimentation. This time the country chosen was Sweden, and the firm Bofors. The Krupp history sets forth (*NIK–9041, Pros. Ex. 146*),* and I will quote:

> "When, after the end of the war, it became a certainty that, for Krupp, gun production would come to a complete standstill, Krupp concluded an agreement with Aktiebolaget Bofors, a Swedish firm, which made available to Bofors information on Krupp's experiences relative to the production of steel in certain fields, and especially of steel for the manufacture of guns, also a license agreement on the basis of which Bofors was authorized to duplicate some types of Krupp's artillery designs insofar as they were not classed as secret by the Reich. Krupp combined with this the intention of benefiting by the experience gathered at that end. Bofors pledged itself at Krupp's request to permit Krupp employees admission to its works at all times and to supply them with all desired information."

The history goes on to tell us that Bofors took over several Krupp contracts for the delivery of guns to Holland and Denmark, the fulfillment of which in Germany was prohibited by the Versailles Treaty. The experience in the design and testing of these guns was made available in turn by Krupp to the Reich Ministry of Defense. The defendant Pfirsch visited Sweden in connection with these arrangements. In conclusion on the Bofors arrangement, the Krupp history tells us (*NIK–9041, Pros. Ex. 146*) and I quote again:

> "On several occasions, Krupp also introduced German officers into the Bofors plant to inspect guns and munitions and who were present during firing tests. Bofors also made experimental ammunition for armored vehicles which was fired in Sweden in the presence of German officers. Thus the Krupp-Bofors relationship proved beneficial for the further development of the German Army's artillery.
>
> "In 1935, the contract agreement between Krupp and Bofors was annulled because a new Swedish law prohibited the participation of foreign capital in Swedish armament firms. The Krupp officials returned to Essen and since then are again working in the artillery designing department."

Guns, however, can be designed and tested more secretly than submarines, and in the field of artillery, violations of the Treaty

* Ibid.

took place within Germany as well as abroad. Krupp activities within Germany were based upon a secret agreement on 25 January 1922 with the Reich Defense Ministry. Here, again, the story is told clearly and succinctly by the secret Krupp artillery history (*NIK–9041, Pros. Ex. 146*):

> "We have seen how, by way of Bofors, Krupp could utilize its previous designs and could derive benefit for itself, and thus for Germany from experiences gathered abroad. In like manner, the firm was also endeavoring to prove ineffective, in Germany itself, the unworthy provisions of the Treaty of Versailles, and in some way or other to participate in the gleaning of experience. The same spirit prevailed with the German authorities * * *. During the first years after the war, an exchange of opinion took place repeatedly on that point. The common wishes and aspirations were finally consolidated in the agreements of 25 January 1922 which, for political reasons, did not constitute an official contract but a gentlemen's agreement * * *.
>
> "These agreements of 25 January 1922 stressed that as a matter of mutual interest it was imperative to draw on Krupp's experience for the continued development of guns of a caliber of 17 cm., and below of munitions and vehicles, as well as also to make available to Krupp the experiences derived by the RWM (Reich Defense Ministry) in this field * * *.
>
> "These most significant agreements of 25 January 1922 are the first step jointly taken by the RWM and Krupp to circumvent, and thereby to break down, the regulations of the Treaty of Versailles which strangle Germany's military freedom." (Wehrfreiheit in the German.) Here I end this quote.

The remainder of the report is devoted largely to the activities of Krupp's artillery designing department under this secret agreement. It appears that the department was dissolved in 1919 but that a large part of its staff was retained on other work. Some fitful research on guns continued and, after the signing of the agreement with the Reich War Ministry, systematic work in cooperation with army artillery officers began. This was checked, however, by the French occupation of the Ruhr in 1923; as a result, Krupp's artillery design work was moved from Essen to Spandau, near Berlin.

On 1 July 1925 Krupp and the German Army's Inspection Office for Arms and Equipment (IWG) established an artillery designing office in Berlin under the camouflage of the name Koch and Kienzle. The Krupp secret history lists a half dozen or more

important artillery design projects which were handled in this clandestine fashion. In the meantime, French occupation of the Ruhr was terminated and, in 1926, the Inter-Allied Control Commission was discontinued and its representatives left Essen. Accordingly, at the end of 1927, the Koch and Kienzle office was dissolved and the Krupp designers returned to Essen, where the artillery designing department had been promptly reconstituted.

The Krupp secret report continues with a long tabulation of the more important tasks undertaken by Krupp in the field of military design at the behest of the German Army and in violation of the Treaty of Versailles. Many of these tasks related to the design of specific types of guns, such as light and medium self-propelled guns and tank guns. Other tasks related to basic problems of artillery technology, such as the proper methods of gun barrel construction, research in breech blocks, and, as the importance of artillery mobility became more and more apparent, the development of gun carriages.

At about this time, several of the defendants in this case made their appearance as important Krupp officials, participating in this clandestine and unlawful rearmament.

Your Honors may wish to look at the chart for this.

We have already seen the defendant Pfirsch visiting Sweden in connection with the Bofors arrangement; in February 1928 we find him negotiating with the army ordnance office on the matter of prices for the development of self-propelled gun carriages. After they joined the Krupp firm in 1926 and 1927, respectively, the defendants Houdremont and Korschan dealt with the selection of types of steel and steel alloys to be used in the manufacture of gun barrels. Korschan also visited the Bofors plant in December 1932 or January 1933 to discuss the development of machine gun barrels.

The departure of the Inter-Allied Control Commission also signalized the revival of Krupp work in connection with the design of tanks. In the early correspondence on this subject between Krupp and the Reich Defense Ministry, the tanks were referred to as "tractors." Besides tanks, other types of military vehicles and self-propelled gun carriages were also developed. One interesting letter, written in November 1927 from the Ministry of Defense to the Krupp firm, set forth the specifications for an "artillery power tractor" which, according to the specifications, was to be of such a size "as to enable the tractor to be shipped on an ordinary open railroad car, considering the smallest Belgian and French loading capacity." A Krupp memorandum written in 1942 (*NIK–10202, Pros. Ex. 162*) tells us that, "with the exception of the hydraulic safety switch, the basic principles

of armament and turret design for tanks had already been worked out in 1926."

We have now outlined the general nature of Krupp's policies and activities with respect to the Treaty of Versailles during the era of the Weimar Republic. The immediate significance of these acts is clear enough. Krupp deliberately decided, in conspiracy with the German military and political leaders, to violate the Treaty in every possible way and to lay the groundwork for the rearmament of Germany. And I quote again (*NI–764, Pros. Ex. 467*):* "Germany must again fight to rise." These acts and decisions constituted preparation to enable Germany to wage war by means forbidden by the Versailles Treaty. And, as we have shown, these acts violated not only international law but German domestic law as well.

But these events have a much deeper significance for this case. One can for convenience divide recent German history into the period of the Weimar Republic and of the Third Reich. But there was no impermeable barrier between the two; the one flows into the other, and Hitler's dictatorship was conditioned by the history of the preceding Republic. Weimar Republic and Third Reich had many common denominators, and one of them was the Krupp firm. What the Krupp firm accomplished under the Republic was a vitally important part of the process of German rearmament for aggressive war. This fact will become increasingly clear as we examine the development of the conspiracy under the Third Reich. The seeds planted during the Republic will now come to flower.

Christmas 1932 was the last under the Weimar Republic, and already Hitler's shadow loomed large. For millions of people, abrupt and terrible changes were only a few months in the future. For some few, the change was neither terrible nor abrupt. On 28 December 1932, Colonel Zwengauer, a department chief in the German Army Ordnance Inspection Office, wrote a note of New Year's greeting to the Krupp firm. It was polite but not a message of peace and good will to men. (*NIK–11775, Pros. Ex. 178.*) It said:

> "I wish to express our thanks for the excellent support which you and your staff have again given us in our development work during the past year.
>
> "The department is convinced that, thanks to your active cooperation and valuable advice, our armament development in 1932 has made considerable progress, which is of great significance to our intent of rearming as a whole.

* Ibid.

"It gives me special satisfaction that the firm, in reviewing the year 1932, may take credit for a substantial material success in the decision reached in your favor concerning the light field cannon."

There could be no better example of the link which the German Army and the Krupp firm constitute between the Weimar Republic and the Third Reich. I now come to—

E. KRUPP AND THE ESTABLISHMENT OF THE THIRD REICH

The facts concerning Gustav Krupp von Bohlen's participation in Hitler's seizure of power have, by now, become matters of public record in other proceedings,* and we may pass over them very briefly. Hitler's selection by Hindenburg as Reich Chancellor on 30 January 1933 grew out of a conference earlier in January between Hitler and von Papen which had been arranged by the Cologne banker, von Schroeder. But Hindenburg's appointment of Hitler as Chancellor did not constitute or assure the Nazi seizure of power; a majority of the members of the Reichstag were members of other parties, and the leaders of other parties were included in the cabinet which Hitler headed. Indeed, despite Hitler's appointment, the situation of the Nazi Party was not, in all respects, promising. The Nazis, at the election of November 1932, lost 2,000,000 votes in comparison to the election of July 1932 and their representation in the Reichstag had fallen from 230 to 196 seats. On 8 December 1932 Josef Goebbels had noted in his diary (*NI–6522, Pros. Ex. 183*):

"Deep depression is prevalent in the organization, financial worries prevent any constructive work. * * * We are all very discouraged particularly in the face of the present danger that the entire party may collapse and all our work be in vain. We are now facing the decisive test."

Accordingly, Hitler's appointment as Chancellor some two months later was an opportunity, but not a fulfillment. New elections were scheduled for the month of March, and the Nazi Party was in desperate need of support, financial and otherwise, to insure such a measure of success as would continue Hitler in office and make possible the completion of the Nazi drive to dictatorship.

In this critical situation, on 20 February 1933, Goering invited about twenty leading German bankers and industrialists to his home, in order to obtain financial support for the Nazis in the coming election. Hitler appeared and delivered a long speech.

* United States *vs.* Friedrich Flick, et al., Case 5, vol. VI; and United States *vs.* Carl Krauch, et al., Case 6, vols. VII and VIII.

Among those in attendance was Gustav Krupp von Bohlen, who made notes summarizing Hitler's speech, which will be offered in evidence. (*D–203, Pros. Ex. 187.*)* Hitler said in part:

"Private enterprise cannot be maintained in the age of democracy; it is conceivable only if the people have a sound idea of authority and personality. Everything positive, good, and valuable, which has been achieved in the world in the field of economics and culture, is solely attributable to personality. When, however, the defense of this existing order, its political administration, is left to a majority, it will irretrievably go under.

* * * * * * *

"Life always tears up humanity. It is, therefore, the noblest task of a leader to find ideals that are stronger than the factors that pull the people apart. I recognized * * * that one had to search for new ideas conducive to reconstruction. I found them in nationalism, in the value of personality, in the denial of reconciliation between nations * * *.

* * * * * * *

"Now we stand before the last election. Regardless of the outcome, there will be no retreat even if the coming election does not bring about a decision. One way or another, if the election does not decide, the decision must be brought about even by other means. I have intervened in order to give the people once more the chance to decide their fate by themselves.

* * * * * * *

"For business, I have the one wish that it go parallel with the internal structure to meet a calm future. The question of restoration of the Wehrmacht will not be decided at Geneva, but in Germany, when we have gained internal strength through internal peace.

* * * * * * *

"There are only two possibilities, either to crowd back the opponent on constitutional grounds, and for this purpose once more this election, or a struggle will be conducted with other weapons, which may demand greater sacrifices. I would like to see them avoided. I hope the German people thus recognize the greatness of the hour. It shall decide the next 10 or probably 100 years."

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* Parts of this document are reproduced in section VIB 1.

Thereafter, Goering addressed the meeting and again stressed the importance of the coming election. "We must penetrate with our SA men into the darkest quarters of the cities." Goering then brought up the matter of financial contributions, and concluded his solicitation with the comment that (*D–203, Pros. Ex. 187*)[1]—

> "The sacrifices asked for surely would be so much easier for industry to bear if it realized that the election of 5 March will surely be the last one for the next 10 years, probably even for the next hundred years."

One other man spoke at this meeting, (*D–204, Pros. Ex. 188*)[2] and that was Gustav Krupp von Bohlen, who expressed to Hitler "the gratitude of approximately 25 industrialists present for having given us such a clear picture of the conception of his ideas." Krupp also stated, on behalf of all the industrialists, that it was high time "to finally clarify the questions pertaining to domestic policies in Germany" and "that only in a politically strong and independent state could economy and business develop and flourish." Krupp concluded by pledging 1,000,000 marks or more on behalf of the Ruhr industries.

Eight days after this meeting, at which Hitler received the support of Krupp and other industrialists, the Reichstag building was set on fire, and on the same day Hitler and his cabinet, utilizing the fire as a pretext, promulgated a decree suspending the constitutional guarantees of freedom. By this decree, certain sections of the German constitution were indefinitely suspended and, as the decree went on to state (*1390–PS, Pros. Ex. 189*)—

> "* * * restrictions on personal liberty, on the right of free expression of opinion, including freedom of the press, on the right of assembly and the right of association, and violations of the privacy of postal, telegraphic, and telephonic communications, and warrants for house searches, orders for confiscations as well as restrictions on property, are also permissible beyond the legal limits otherwise prescribed."

This was the first act of Hitler and the Nazi Party after receiving the subsidy which Krupp had so generously provided. The decisive election was held with the constitutional guarantees in a state of suspense one week later; the Nazi Party received seventeen million votes out of thirty-nine million cast, and 288 Reichstag seats out of a total of 647. Still lacking a majority, Hitler applied the "other methods" which he had threatened to

[1] Ibid.

[2] Document reproduced in section VIB 1.

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use in his speech on 20 February. Opposition members in the Reichstag were taken into "protective custody" and in their enforced absence the Reichstag on 24 March 1933 passed the Enabling Act which gave Hitler full legislative power, including the power to deviate from the constitution. (*2001–PS, Pros. Ex. 191.*) Thus perished democracy and liberty in Germany.

Soon after the elections of 5 March Gustav Krupp von Bohlen had taken upon himself the leadership in rallying German industry behind the Nazi dictatorship. The day before the Reichstag passed the Enabling Act, he convened a meeting of the Praesidium of the Reich Federation of German Industries, to discuss the political situation; on 25 March, the day after the Reichstag decree, a resolution of the Federation supporting the Nazi government was transmitted to Hitler.

During the remaining months of 1933 the grip of tyranny grew even tighter. The independence of the judiciary was fatally undermined, special political courts were established, and the concentration camp made its appearance. Jews were eliminated from the civil service and otherwise persecuted, the trade unions were strangled, and the Hitler Youth was organized on military lines. Josef Goebbels established the Ministry of Peoples' Enlightenment and Propaganda to insure distortion and suppression of the truth. Germany withdrew from the International Disarmament Conference and from the League of Nations.

In the industrial field, Gustav Krupp supported and participated in this brutal course of dictatorship step by step. In April 1933, Hermann Goering founded the Gestapo. In the same month, the Reich Association of German Industry, through Gustav Krupp as its chairman, submitted to Hitler a plan for the reorganization of German industry according to the "Fuehrerprinzip" or "leadership principle." The documents which we will offer make it clear that this plan was developed by Gustav Krupp in close collaboration with and after numerous conferences with Hitler himself. In transmitting the plan, Gustav Krupp stated (*D–157, Pros. Ex. 195*) :*

> "The turn of political events is in line with the wishes which I myself, and the board of directors, have cherished for a long time * * * . In reorganizing the Reich Association of German Industry, I shall be guided by the idea of bringing the new organization into agreement with the political aims of the Reich government * * *."

In May 1933 the old German trade unions were suppressed and replaced by the compulsory Nazi labor organization, the Deutsche

* Ibid.

Arbeitsfront (DAF); in June 1933 Baldur von Schirach became the youth leader of the German Reich, and soon thereafter most of the preexistent youth organizations were dissolved. During these same months, Gustav Krupp was organizing the so-called Adolf Hitler Spende, or Adolf Hitler Fund. This was a fund collected annually from every circle of German industry, including banking and agriculture. The proceeds were put at the disposal of Hitler and various Nazi Party organizations, including the SA, the SS, and the Hitler Youth. Gustav Krupp remained chairman of the organization which raised this fund until about 1942, when his son, the defendant Alfried Krupp took over this function.

While Gustav Krupp was devoting his energies to the consolidation of the Nazi dictatorship within Germany, he did not fail to note the importance of concealing its true character from the world abroad. After a conference with Alfred Rosenberg, then Chief of the Bureau of Foreign Politics of the Nazi Party, he arranged for funds to be put at Rosenberg's disposal in order "to counteract" by "counterpropaganda" the "misunderstandings" which were being created abroad "by ill-meaning circles."

At numerous public meetings and conferences, Gustav Krupp continued to carry the torch for Adolf Hitler and the Nazi Party. He complied willingly with a request from Goebbels for an article in support of Hitler to be used for the so-called "plebiscite" of November 1933. After the Anschluss with Austria, in March 1938, he paid tribute to the "statesmanship" of Hitler and hailed the "victory of Germanism in central Europe."

No useful purpose would be served by further recital of the many occasions on which Gustav Krupp demonstrated, publicly and practically, his wholehearted support of the dictatorship of the Third Reich and of its accomplishments. We will, in due course, suggest some of the reasons which determined this course of action. We may first, however, more profitably examine the policies and activities of the Krupp firm and of these defendants between the birth of the Third Reich and the seizure of Austria in 1938.

F. KRUPP AND THE THIRD REICH—THE PREWAR YEARS (1933–1938)

The support which Krupp gave the Nazi Party was dictated, in part, by very practical considerations of self-interest. The development orders which the firm received from the Weimar Republic, while valuable in that they preserved the position and connections of the firm, could not possibly return Krupp's capital investments in armament production. For that a large scale armament production program, unhampered by the restrictions

of the Versailles Treaty, was necessary. It was precisely this which the Nazis promised. By aiding their accession to power, Gustav Krupp was simply collecting on the gamble taken in 1918. In a Germany pledged to rearmament, Krupp would again flourish as the "weapons forge" of the Reich. The period of losses would be over.

Such indeed proved to be the case. The Krupp board of directors were able to report for the business year following the Nazi seizure of power that, "the business, for the first time after 3 years of losses, yielded a profit." (*NIK–12227, Pros. Ex. 268.*) The report reads:

> "The upward trend of German economy which marked the past year was visibly reflected in our plants. The measures of the Reich government designed to promote the national work have given a vigorous impulse to the entire industrial life of our people. A strong, new, national will to work, founded upon a national basis, has superseded the class struggle and found free expression in new legal forms.
>
> "The economic revival of the German iron industry which set in with the national revolution has gradually extended to almost all our spheres of operation from the production of raw materials to the manufacture of the finished products."

The character of "the measures of the Reich government designed to promote the national work" responsible for the "improved market position" which the board of directors took so much pleasure in reporting is indicated by a later report of Krupp's Grusonwerk, referring to this period (*NIK–11178, Pros. Ex. 266*).*

> "Immediately after the seizure of power, the navy, as the most powerful part of the Wehrmacht, began with us to equip and expand our factory installations for the production of war materials. In view of our location in the heart of the Reich, favorable from a military point of view, the production of especially important Wehrmacht equipment was entrusted to us from the very outset, and plant facilities for a much greater capacity than would be required for peacetime needs were set up in case of war."

As the program of rearmament, which was started immediately after the seizure of power, was accelerated, the returns to Krupp rose proportionally. In 1935 the net profits of the firm after taxes, gifts, and reserves were approximately 57 million Reichs-

* Parts of this document are reproduced below in section VI B 1.

marks; in 1938 they were 97 million; in 1940, 111 million. This increase in the profits of the Krupp firm was the direct result of the tremendous armament program launched under the Third Reich.

From the time of the Nazi seizure of power until the defeat of Germany, the relations between Hitler and the Krupp firm were exceedingly close. Hitler often visited Krupp to inspect the progress of particular projects; he consulted with its members, particularly the defendants Alfried Krupp and Erich Mueller, on armament problems; he participated in planning its expansion; and almost every project of any size worked on by Krupp was on Hitler's personal order. The work done by Krupp reflected this close relationship. It followed every turn of the development of the Nazi plans of aggression.

After the seizure of power, Hitler's first concern was an immediate strengthening of the German armed forces in all respects. This was a necessary preliminary to repudiation of the Versailles Treaty and reoccupation of the Rhineland, both of which had to be accomplished before more ambitious steps could be taken. Equipment of all types was needed, and needed quickly. At this point, the value of the secret development work which Krupp had been doing proved itself. Large scale production of tanks, artillery and, in due course, submarines, of the most advanced and modern type, could be started immediately. Krupp subsequently had occasion to remind the Reich of these facts.

> "Owing to the fact only, that the firm, acting on its own initiative and believing in a revival, has since 1918 retained at its own expense its employees, practical knowledge, and workshops for the manufacture of war material, it was in the position not only to produce war material in its own plants as soon as called to do so, but to initiate other firms which were not familiar with the manufacture of war material, and therefore contribute to the enlargement of the armament capacity. This has shown particular results as regards the heavy field artillery which is the backbone of the army."

During the period after the First World War, Krupp had worked on producing a mount for the 88 mm., antiaircraft gun, developed during that war for naval use, which would make it suitable for the army. This work had been completed by 1933. In consequence, mass production of the gun which was to become famous in the Second World War was started in 1933 at the Grusonwerk. To meet the requirements of the army for mortars and howitzers, the defendant Korschan found it necessary, as

early as June 1933, to submit a request for the enlargement of one of the principal gun shops.

Like the initial mass production of medium and heavy artillery, the first two tank programs also rested on Krupp designs. A Krupp memorandum relates (*NIK–10202, Pros. Ex. 162*):

> "The firm of Fried. Krupp played a pioneering role in the development of combat vehicles in Germany since the earliest beginnings in 1926. After the preliminary experiments with the 'heavy tractor,' 'light tractor,' and the L.S.K., the LaS* was developed and built in series by the firm of Fried. Krupp as the first German tank (alternatively equipped with air cooled Fried. Krupp engine or water-cooled Maybach engine). Four subcontractors built the LaS to our designs and specifications and were enabled thereby to work out their own designs for new types of tanks."

The first large scale tank program initiated by the Nazis called for the production of 100 tanks by March 1934; the second, for 650 by March 1935. It is worth observing that the Versailles Treaty, under which all tanks were forbidden, was not formally repudiated by Germany until May 1935. Krupp contributed the design for these programs and shared in their execution. These illegal programs were camouflaged by calling the tanks "LaS", the abbreviation for the German words meaning agricultural tractor. The choice of name completely epitomizes the inverted scale of Nazi values; swords rather than plowshares, tanks rather than agricultural tractors. During the period of extensive but necessarily secret rearmament, which immediately followed Hitler's accession to power, the navy could play only a subordinate role to the army. Tanks and artillery can be kept hidden more readily than submarines and battleships. The navy could and did prepare, however, for the moment when the Treaty of Versailles would be openly repudiated. In this it received the full cooperation of Krupp. By October 1934 the Germania shipyards had received orders to build six submarines. Two months before Germany unilaterally denounced the Versailles Treaty, the keels of these boats were laid. Two months later, the first one was delivered. The design for these boats was the product of the I.v.S. The value of the work done prior to 1933 thus proved itself again.

Raeder, the Commander in Chief of the Navy, was preparing as early as 1934 to oppose England. Hitler considered it vital that the navy be increased, "as no war could be carried on if the

* Landwirtschaftlischer Ackerbau Schlepper—agricultural tractor, code name for first tank developed by Krupp after World War I.

navy was not able to safeguard the ore imports from Scandinavia." To enable Krupp to meet the demands of the navy arising out of this program of expansion, two interest-free loans were made; one in January 1934, the second in December 1934. Both loans were made in "MEFO" bills. This was the device by which Germany, both before and after repudiation of the Versailles Treaty concealed the vast sums going into rearmament.

As early as 29 April 1933 the defendant von Buelow was called to a conference of armament firms at the War Ministry to discuss methods of payment for war material deliveries. Three months later, the Metallurgische Forschungsgesellschaft m.b.H. (called "MEFO") was founded by five armament firms of which Krupp, represented by von Buelow, was one. The function of this company, which was purely a dummy organization, was to accept bills drawn on it by armament contractors. These bills were then received by all German banks for discounting with the Reich Bank. They were guaranteed by the Reich. Their secrecy was assured by the fact that they appeared neither in the published statements of the Reich Bank nor in the budget figures. Until their abandonment in 1938, when the secrecy of the rearmament program was no longer essential as it had been, Krupp was one of the chief users and beneficiaries of the 12 billion Reichsmarks channeled into rearmament through this device.

With the leave of the Court, I should like at this time to ask Miss Cecelia M. Goetz of the prosecution staff to take over for the opening statement.

PRESIDING JUDGE ANDERSON: Very well.

MISS GOETZ: If the Court please. In May 1935 the armament provisions of the Versailles Treaty were formally and publicly repudiated. They had already become virtually a dead letter. Repudiation permitted rearmament to be more open than previously, but otherwise affected it comparatively little. The Versailles Treaty had long since ceased to pose any effective barrier to German rearmament. The annual report of Krupp's war material department lumps the period before and after repudiation in the following terse sentence (*NIK–11505, Pros. Ex. 519*):

> "With the close of the past fiscal year 1936–1937, 3 years have passed since the recommencement of war material production unhindered by the obligations of the Treaty of Versailles."

Greater candor would have made it 4 years. After the seizure of power by Hitler, the obligations of the Treaty of Versailles were little hindrance to either Krupp or the government.

At the Nazi Party rally in September 1936 Hitler reviewed what had already been accomplished by way of rearmament and

announced as his new four-year program (*NI–8459, Pros. Ex. 347*):

> "In 4 years, Germany must be wholly independent of foreign countries in respect to all those materials which can, in any way, be produced through German capability, through our chemistry, machine, and mining industries.
>
> * * * * * * *
>
> "I have just issued necessary orders for carrying out this mighty German economic plan. Its execution will take place with National Socialistic energy and force."

In a memorandum to Goering, Plenipotentiary for the Four Year Plan, explaining its objectives, Hitler stated that the final solution of Germany's problem lay in the acquisition of new territories; that such acquisition was the task of "the political leadership"; that in order for the "political leadership" to exercise its responsibilities, the German economy had to be mobilized for the purpose of making Germany self-sufficient in critical war materials.

The industrialists, including Krupp, whose cooperation was needed for the accomplishment of Hitler's program of autarchy, were advised that the purpose of the Four Year Plan was to prepare Germany for war. On 17 December 1936, in Hitler's presence, Goering made a speech in Berlin to the Reichsgruppe Industrie, in which the intention of the Nazi Government to wage war was plainly stated. (*NI–051, Pros. Ex. 350.*) Goering said, among other things: "The battle which we are approaching demands a colossal measure of productive ability. No limit on the rearmament can be visualized. The only alternative in this case is victory or destruction. If we win, business will be sufficiently compensated." He ended his speech: "Our whole nation is at stake. We live in a time when the final battle is in sight. We are already on the threshold of mobilization and we are already at war. All that is lacking is the actual shooting."

Krupp cooperated as wholeheartedly in the over-all economic program of the Four Year Plan to make Germany self-sufficient in essential war materials as it did in the more direct armament programs of the army and navy. Houdremont acted as a special advisor to the Four Year Plan on metallurgy. As one of the leading iron and steel producers in the Ruhr, Krupp sent its representatives to the conferences at which plans were laid for the greatest possible exploitation of Germany's natural ore resources. At the first of these meetings, held on 17 March 1937, Goering emphasized that the "shortage of ores must not endanger the

program of munitions production or armaments in case of war." The core of the problem was, "What is the quantity that the German ore mining industry must be prepared to supply the German nation in case of war, and in how many years must this goal be attained?"

At a second meeting, held 3 months later, to discuss progress in the program, Goering made it even clearer that Germany was preparing for war and that production and distribution, including the export of iron and steel products, had to be adjusted accordingly. He stated that the purpose of the Four Year Plan was "to create a foundation upon which preparation for war might be accelerated" and the most urgent necessity was to increase iron production. Iron was to be used first to increase iron production, and then for the armed forces, for warships and tanks, for the Four Year Plan, and for export for foreign exchange. The export of semifinished products was to be reduced and care was to be exercised not to facilitate the armament of the enemy. Goering was assured that only six percent of Germany's export of iron went to "so-called enemy countries like England, France, Belgium, Russia, and Czechoslovakia."

The iron and steel industrialists, through the Wirtschaftsgruppe Eisenschaffende Industrie, in which Krupp representatives held leading positions, gave their full cooperation to this program. On 4 November 1938 at a conference of iron and steel industrialists including the defendants Alfried Krupp and Ewald Loeser, Goering—through his representative—congratulated the members of the industry upon what had been accomplished.

The eagerness with which Krupp set itself to cooperating with the Four Year Plan is set out at length in the report of its board of directors for 1936–1937. (*NIK–12726, Pros. Ex. 355.*) The report reads:

> "Our primary task within the framework of the entire German economy was cooperation to bring into effect, practically, military sovereignty, to attain the goals set by the Four Year Plan, and to strengthen the export trade and the foreign currency balances."

The character of the German armament program during the second phase of rearmament, from 1936 to 1939, is indicated by Hitler's instructions to Goering in 1938. These were to build, as rapidly as possible, an air force five times as large as originally planned, to increase the speed of the rearmament of the navy and army, and to concentrate on offensive weapons, principally heavy artillery and tanks. Krupp was valuable to the execution of all these objectives, and, to some of them, indispensable.

During these years Krupp had a virtual monopoly of the design of heavy artillery and of tank turrets. Any armament program involving these required its cooperation for success. Every effort was made, at Hitler's personal request, to achieve the maximum output of the 21 cm. mortar, a heavy gun used for shelling fortifications. Heavy howitzers continued to be produced in large numbers. In addition to increased production, Krupp made available to other firms its designs and "know how." A Krupp report states (*NIK–11625, Pros. Ex. 522*) :*

> "From the beginning of the rearmament program, we have, to a great extent, placed our experience, free of charge, at the disposal of subcontractors, both with regard to the necessary installations and production factors, and with regard to the production of guns, in order to permit rapid rearmament on a broad basis. We considered the request to surrender all data which would serve to increase the armament industry's capacity, e.g., also in the metallurgical field, to be justified in the interests of the life and death struggle of the German people, and we considered the fulfillment of this request to be a matter of course."

The value of Krupp designs to Germany is indicated by the following extract from a report written in 1940, after the start of the war:

> "The guns, developed by us such as heavy 15 cm. field howitzers, heavy 10 cm. and 15 cm. guns, 88 mm. antiaircraft guns, 21 cm. howitzers, and railway guns, represent the *main body of the medium artillery* of our present armed forces."

In the field of tanks and combat cars, the debt of the German army to Krupp was nearly as great.

In addition to these orthodox developments, Krupp, at the personal suggestion and request of Hitler, embarked on the design and execution of a monster 80 cm. railway gun, eventually named the "Big Gustav," which was beyond doubt the largest gun ever constructed. Its specifications required that it penetrate the armor plate one and a half meters thick and cement ceilings three and a half meters in depth. Because of its huge size, it represented a radical departure from all conventional gun construction and would have been beyond the competence of almost any firm other than Krupp. Its first test firing in December 1941 was attended by all the top executives of the firm as well as by high army officials. The defendant Erich Mueller and a team of Krupp

* Ibid.

men personally supervised its use at the siege of Sevastopol in May and June 1942. According to a Krupp report, it was "fired 53 times in all, sometimes with the most successful results against fortified targets. After the fort was captured, opportunity was given to study the good aiming and also the exceptional effects of the semiarmor-piercing shells on fortifications."

Krupp's chief importance to the rearmament program lay, however, in its value to the navy. In recognition of the importance of the activities of the defendants Alfried Krupp, Loeser, Houdremont, Korschan, Mueller, Janssen, and Pfirsch to the rearmament of the navy, they were all designated "War Economy Leaders" (Wehrwirtschaftsfuehrer) and charged with the responsibility of preparing and carrying out the mobilization of the armament industry and of directing it in time of war. Each of them was required to submit, in connection with the acceptance of this position, a so-called "declaration of political attitude" (*NI–5479, Pros. Ex. 1480*) in which he stated:

> "I herewith declare that I stand by the National Socialist conception of the State without any reserve and that I have not been active in any way against the interests of the people.
>
> * * * * * * *
>
> "I am aware that in case of any expressions or actions of mine in the future which might be understood as an offense against the National Socialist conception of the State, I must expect, in addition to a legal prosecution, my dismissal from the post of Wehrwirtschaftsfuehrer."

PRESIDING JUDGE ANDERSON: I don't understand that.

MISS GOETZ: Each of these men upon accepting the post of Wehrwirtschaftsfuehrer was required to submit this declaration. It was a condition precedent to appointment.

Plans for extending Krupp facilities to meet the requirements of an expended navy program were first discussed at Berchtesgaden with the defendants Alfried Krupp and Erich Mueller, in May 1937. These plans crystallized a year later under the name of the "E-program," pursuant to which Krupp was to receive approximately 180 million Reichsmarks as an interest free loan to use for expansion. It was Hitler's intention to build a navy to match that of England. Eventually, it was planned to build three battleships a year. The extension of Krupp's facilities was necessary to meet the demand this would create for armor plate and guns. These plans were to have been substantially completed in 1944, and the outbreak of war with England necessitated revision; consequently, the "E-program" was never fully realized

as originally intended. Nevertheless, Krupp contributions to the navy were by no means minor. It produced the guns for the pocket battleships "Scheer" and "Graf Spee," for the battle cruisers "Scharnhorst" and "Gneisenau," the battleships "Bismarck" and "Tirpitz," and for the cruisers "Bluecher," "Admiral Hipper," and "Seydlitz." The cruiser "Prinz Eugen" was not only armed by Krupp, but built at its yard in the Germaniawerft. This yard, which had been the cradle of German submarine construction, continued to play a leading role in their design and construction.

In addition to building up the striking power of the German armed forces, Krupp was also vitally important in the construction of the West Wall, which was equally as essential to the accomplishment of the Nazi plan of aggression. Like the Four Year Plan, the West Wall was first projected in 1936 when fortification of the West was first made possible by the militarization of the Rhineland. As one German officer later stated, the West Wall, and I quote:

> "* * * in contradistinction to the Maginot Line, was not a measure based on debility and resignation, but one intended to afford rear cover for an active policy in the East."

Immediately upon the reoccupation of the Rhineland, Krupp, which as early as 1933 had begun working on fortifications, was asked to take a substantial part in its construction. According to documents in the Krupp files, construction of the West Wall would not have been possible without its assistance (*NI–764, Pros. Ex. 467*).*

> "Fortifications for the *border defense* line (cupolas and casemates) of latest construction were first developed by Krupp after the war. The experience gained thereby served as a basis for the organization of the present system of fortification. It would have been impossible to carry out the required tasks had Krupp not been able to fall back upon its experience in the manufacture of armor plate and upon its foundries."

In 1938 after five continuous years of rearmament, Hitler personally advised Alfried Krupp that there was still no end in sight. By this time, the aggressive intentions of the Nazis were beyond question. In that year, German armed might brought about the seizure of Austria and the Sudetenland. The Krupp firm shared in the spoils of conquest. We now take up—

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* Reproduced in section VI B 1.

G. THE INVASION AND OCCUPATION OF AUSTRIA

On 12 March 1938, Germany invaded Austria. This move was, as the International Military Tribunal found, a "premeditated aggressive step," but its timing was not planned in advance. On the contrary, it was precipitated, unexpectedly even to Hitler, by Schuschnigg's announcement on 9 March of a plebiscite on the question of Austrian independence.

Long before the German invasion of Austria, the Krupp firm had coveted—and coveted in vain—the Berndorfer Metallwarenfabrik, the most important Austrian metal enterprise. The Berndorfer firm, located near Vienna, had itself been established by a Krupp—Arthur Krupp, a great granduncle of Alfried Krupp—in 1843.

By the time the Krupp firm became interested in the acquisition of Berndorfer, 85 percent of the Berndorfer shares were owned by one of Austria's principal banks, the Austrian Creditanstalt. Krupp's interest in acquiring Berndorfer shares is reflected in a letter written in February 1937 to Gustav Krupp by Tilo von Wilmowsky, his brother-in-law and deputy chairman of the Krupp Aufsichtsrat (*NIK–8700, Pros. Ex. 1272*).* Wilmowsky wrote:

> "I talked with State Secretary Lammers today. He is going to try to have the Fuehrer receive you, if at all possible, the week after next. I told him that you wanted to speak to him about the possibility of acquiring Austrian shares * * *. At the same time, I asked him to see to it that the audience takes place as soon as possible as you were very anxious to have the matter definitely settled and besides, the Fuehrer himself had promised to receive you."

Despite all Krupp's efforts, however, the Austrians were not willing to sell the majority interest in Berndorfer. Other German firms were also interested in Berndorfer and, in order to establish a preferred position the Krupp firm kept the negotiations alive and continually brought its wishes to the attention of the Reich authorities.

In March 1938 the invasion of Austria and the subsequent Anschluss presented Krupp with its long-sought opportunity. As the official Krupp historian has put it, Krupp's acquisition of Berndorfer was a "pleasant consequence of the annexation of Austria." After the Anschluss, the Reich government issued a decree prohibiting German industrialists from buying up valuable properties in Austria, in order to insure that the German

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* Document reproduced below in section VIIB.

Government itself could control and direct the process of expropriation. Krupp, accordingly, was dependent upon the government for approval of the purchase of the Berndorfer shares, and this was accomplished through Hermann Goering, who directed that the Berndorfer enterprises could be sold only to Krupp. Goering as head of the Four Year Plan, was anxious to achieve the integration of the Austrian economy as quickly as possible with the German war economy; Krupp stood ready to accomplish this with respect to the Berndorfer plant and, accordingly, Goering directed Wilhelm Keppler, his representative in Austria, to support Krupp's position.

The Creditanstalt lost its independent Austrian character soon after the Anschluss, and bowed to force and transferred the Berndorfer shares to Krupp. In this acquiescence, of course, the Austrian institution was not a free agent. Krupp actually paid for the Berndorfer Works just over 8,500,000 RM; less than 6 months later, the assets of Berndorfer were estimated at over 27,000,000 RM in Krupp's balance sheet. The defendant Loeser played a personal and important part in Krupp's acquisition of the Berndorfer shares. Soon after the acquisition, Berndorfer's production was converted to Goering's program of economic preparation for war under the Four Year Plan. During the war itself, the plant was used for manufacturing munitions and other materials for aggressive warfare, with the aid of thousands of slave laborers.

The acts which we have just described constitute a separate crime under count two of the indictment, but they are equally criminal under count one, and all the charges with respect to plunder and spoliation are incorporated in count one by virtue of paragraph 29 of the indictment. These acts were an intrinsic part of the invasion of Austria, and the invasion clearly constituted a "crime against peace" within the meaning of Control Council Law No. 10. And the occupation of Austria, including the conversion of Austrian industry in conformity with the needs of the Four Year Plan and the appropriation of Austria's military potential, was part of Germany's preparation for the aggressive wars which were to be launched in the near future. Now we come to—

H. FRIED. KRUPP A.G. AT THE OUTBREAK OF WAR IN 1939

On 1 September 1939 the aggressive plans of the Third Reich culminated in the Second World War, touched off by the invasion of Poland. Long before the actual outbreak of war, it had been anticipated within Germany. Mobilization plans had been made as early as 1936. In Krupp memoranda on production problems,

references to the various terms by which the possibility of war was referred to, "A-Fall", "Mob-Fall", and "Ernst-Fall", crop up constantly.

In September 1938 the defendant Loeser started to arrange Krupp's affairs against the war which was so clearly in preparation. A memorandum of a telephone call made by him in that month to the Dresdner Bank reads (*NID–7868, Pros. Ex. 487*):

> "Krupp has outstanding debts, payable in foreign currency, mainly in England, amounting to several million Reichsmarks and on the other hand has liabilities in foreign countries, which amount to less than that amount. On the basis of its experiences during the World War, Krupp intends to assign its outstanding debts in foreign countries to its foreign creditors in payment of their claims against it, in order to prevent its accounts receivable from being confiscated, while its foreign debts still remain on the books.
>
> "Krupp has in the meantime applied for permission to the Foreign Currency Control Office."

When the war actually broke out, the defendants knew that the war against Poland was aggressive. But this knowledge in no way deterred them from continuing to participate in its waging as willingly and as fully as they had in its preparation.

Before going further, it may be useful to take another look at the Krupp company, and the positions occupied therein by the several defendants, at the outbreak of war in 1939. The Krupp enterprise had grown materially in size and scope of activities during the Hitler regime. Some of its coal deposits had been utilized for the development of synthetic gasoline manufacture; this and other commercial chemical processes were carried on through the Krupp Treibstoffwerk. Shipbuilding facilities were expanded and control of the Deutsche Schiffs u. Maschienbau Aktiengesellschaft was acquired. The development of new metals intensified the acquisition of interests in foreign countries. As we have just seen, the Berndorfer Works in Austria were acquired in 1938; soon German conquest was to bring Krupp extensive new interests in Lorraine, the Soviet Union, and elsewhere.

The corporate structure of the Krupp enterprise, in a very simplified form, is shown by the chart on the wall of the courtroom—on my left hand, the last chart nearest the defendants. The principal company, Fried. Krupp A.G., was both an operating and a holding company—the big box in red at the top of the chart. The original plant in Essen (the Gusstahlfabrik) and the two newer plants in nearby Rheinhausen (the Friedrich-Alfred-Huette and the Krupp-Stahlbau)—all three as shown in

the big red box at the top were regarded as plant sections of the main company and were directed by the same officials.

The two principal subsidiary companies were the Germania Shipyards at Kiel and the Grusonwerk machinery factories at Magdeburg. They are shown in purple just below the red box. Mines, collieries, transportation companies, development and research companies, and a host of miscellaneous other enterprises were carried on by various other subsidiary concerns.

Scattered as were the Krupp interests geographically, Essen remained the center of the complex and maintained control through membership on the governing bodies of the subsidiaries, tight control of the expenditures, and the dependence of the outlying firms on Essen for research, advice, and directing personnel. Policy was made at Essen and frequently representatives of the Essen managers were "sent into the field" to direct, investigate, and report back.

In 1939 Gustav Krupp von Bohlen, as proprietary manager and chairman of the Aufsichtsrat, was still the final authority on important policy matters, although he was approaching the age of 70. The practical management of the firm, however, was handled by the members of the Krupp Vorstand and their principal deputies.* In 1939 there were three Vorstand members—the defendants Alfried Krupp and Loeser, and the deceased Paul Goerens. Loeser, who had joined the Krupp firm in October 1937 as a member of the Vorstand, was concerned primarily with finance, commerce, and administration. Alfried Krupp, who reached the age of 30 in 1937, had been playing an increasingly important part in Krupp affairs during the last several years, and became a Vorstand member in October 1938; his special responsibilities were in the field of armament, raw materials, and mining. Goerens, who died (a suicide) soon after the end of the war, was responsible for metallurgy, and for the steel, machine, and locomotive plants.

The other ten defendants occupied responsible positions under the three Vorstand members. Seven of them in 1939 held the title of "deputy director." Houdremont and Korschan were steel specialists under Goerens; Ihn and Janssen were subordinated to Loeser, Ihn as personnel manager and Janssen as chief of Krupp's Berlin office. Under Alfried Krupp, Erich Mueller was in charge of artillery design, and Pfirsch and Eberhardt were concerned with war materials sales. Of the remaining three defendants, von Buelow was the chief of the plant police and in charge of

* Concerning the Vorstand and the responsibilities of the Vorstand members in the Krupp firm, see the extracts from the charter of the Krupp concern (*NI-2850, Pros. Ex. 29*) reproduced in section V B.

intelligence and security. Lehmann after February 1940 occupied a responsible position under Ihn in the personnel field, and Kupke was at that time in charge of the experimental firing ranges, under Erich Mueller.

As the middle chart on the courtroom wall shows, the defendant Pfirsch is by far senior to the other defendants in point of length of service, having joined the firm in 1902. Janssen and Eberhardt joined immediately after the First World War, and Houdremont and Korschan just after the departure from Essen of the Inter-Allied Commission of Control. Von Buelow and Ihn became Krupp officials at the time Hitler came to power, and Erich Mueller, Alfried Krupp, and Loeser all took important positions at about the time of the Four Year Plan. Kupke and Lehmann were less important officials who joined the firm, respectively, just before and just after the outbreak of war.

Before continuing, we must also note the important parts which many of the defendants played in the great German industrial association and government offices. In the German iron, steel, and coal industries, the economic associations wielded a mighty influence, which increased during the war. Their functions were numerous—from setting prices to mobilization of industry for war. Reference has already been made to Gustav Krupp's leadership of the Reich Association of Industry down the Nazi road of dictatorship under the Fuehrerprinzip.

Under the Third Reich, the great economic associations were made semipublic organizations, strengthened and often given new form and names. After 1934 one of the most important organizations in the iron industry was the Wirtschaftsgruppe Eisenschaffende Industrie, which we shall refer to as the "WGE," and in which Krupp was strongly represented. Among its officials were the defendants Alfried Krupp, Loeser, Houdremont, and Ihn. It was directed until 1942 by the informal, behind-the-scenes group called the Kleiner Kreis (Small Circle) composed of seven leaders of industry, one of whom was the defendant Loeser. The WGE was the council house at which the government economic leaders discussed with industrial leaders their preparations for war, and where plans were made for the preparation and mobilization of the iron and steel industry for war. Later it participated in the execution of the spoliation and slave labor program.

In 1942 economic controls over the industry were tightened with the establishment of the Reichsvereinigung Eisen (Reich Association Iron, commonly called "RVE"), of which the defendant Alfried Krupp was deputy chairman in charge of raw materials and transport, and in which several other defendants played

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leading roles. In this position they participated in the formulation and presentation of demands for slave labor to be fed into the maw of the industrial machine, and in the spoliation of occupied territories. The coal industry was organized even earlier into a similar tight organization, the Reichsvereinigung Kohle (Reich Association Coal, or "RVK"); the defendant Alfried Krupp was a member of the Praesidium of this organization and chairman of the committee on organization. We now come to—

I. THE WAR YEARS (1939–1945)

With the actual outbreak of war, Krupp's efforts on behalf of German armament became, if possible, even greater. As a report prepared by Krupp in 1942 shows, their contributions to the program of conquest had already been substantial (*NIK–10499, Pros. Ex. 491*).[1]

> "The superiority of German weapons in the campaigns of the last 2 years, in the battles in the air and also on the sea, is at the same time the best proof of the great achievements which Krupp attained in the field of armaments.
>
> "The great fighting strength of the German artillery, the superiority of the German tank IV over those of the enemy, the performance of the 8.8 cm. antiaircraft gun in the support of other formations in attack as well as in defense against enemy tank attacks, the successes of the German Air Force and of the submarine, the fight of the battleship 'Bismarck,' already speak clearly for the quality of these weapons, in the development of which Krupp played a decisive part."

Within the limits of available time, we may only touch on a few of the many ways by which Krupp helped to wage the war it had done so much to bring about. Quite apart from the actual production of armaments for the Wehrmacht, for instance, were Krupp's exports and export policies. Ever since 1936, when Krupp's armament exports were resumed, they had provided a substantial part of the foreign exchange required, for the Four Year Plan. A memorandum written by the defendant Eberhardt states (*D–191, Pros. Ex. 322*):[2]

> "Straining every nerve, without regard for effort, expense, and risks, important transactions were negotiated which served the purpose of procuring foreign exchange or raw materials, and were at the same time welcome from a political point of view."

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[1] Part of this document is reproduced in section VIB 1.

[2] Ibid.

For, while the procurement of foreign exchange was important to the realization of the objectives of the Four Year Plan, more direct military and political considerations controlled the export of armaments. Thus, the countries which were potential enemies of the Third Reich were barred from exports, regardless of economic considerations. This group included the former Allied governments almost without exception, and the established governments of Spain and China; Franco's forces, however, fought with tanks and bullets made by Krupp.

The export of armaments served Germany's war program in still other respects. Krupp was thoroughly indoctrinated by the German armed forces intelligence service in the necessity for acquiring information concerning foreign armaments in the course of its export business, and was schooled in the best techniques for acquiring such intelligence. On 9 February 1940 less than 2 months before the invasion of Denmark, Krupp canvassed its organization, including its representative in Denmark, to provide the counterintelligence service of the German High Command with information on Danish armament establishments. And in March 1941, within 1 month of the attacks on Yugoslavia and Greece, Krupp furnished the Army High Command with complete lists of all guns which Krupp had shipped to the Balkan countries.

Because of the control exercised by Hitler and the OKW, the High Command of the Army, the export of armaments often reflected German foreign policy and indicated, to the informed observer, the countries against which Germany's next aggressions were directed. So, in May 1939, the coming aggression against Poland was signaled by the cutting off of all armament exports to that country. On 22 August 1939 Germany's intentions were even more clearly disclosed by an order requiring immediate cessation of exports to Poland, but advising that suspicion should not be aroused by outright cancellation of outstanding contracts; instead, evasive answers should be given Polish customers.

Precisely the same pattern of conduct was followed in connection with Holland. In the spring of 1939, an order for delivery in the following year of 120 light field howitzers, together with ammunition, was obtained by Krupp with the assistance of the German Government. In March 1940, at Krupp's suggestion, in order not to arouse the suspicion of the Dutch, they were given visas to inspect the still unfinished guns. These guns were, in fact, never delivered, as Holland was invaded long prior to the date fixed for their delivery. Instead, they were completed for the German Army; the Dutch, however, were forced to pay for them on the ground that they were unsalable.

In 1940 at the urgent request of the German Government, Krupp contracted to export naval guns and other war material to the Soviet Union. This decision was dictated by the desire to obtain extensive exchange shipments of grain and other essential raw materials, and to maintain the appearance of friendly relations between Germany and the U.S.S.R. Dilatory tactics which would not arouse Soviet suspicions, but would prevent delivery of war materials, were prescribed shortly before the attack on the Soviet Union in June 1941.

After the outbreak of war, Krupp's relations with both the Wehrmacht and the Reich civilian agencies grew even closer. The experience it had accumulated was put at the service of the government. Two of the defendants, Erich Mueller and Houdremont, took leading government positions. In September 1940 Mueller became chairman of the newly created Weapons Committee in the Todt Ministry. Eventually, as chairman of the Armament Commission, the successor agency to the earlier committee, Erich Mueller controlled the production of all weapons from small firearms to the largest caliber guns. Houdremont in the field of metallurgy filled an analogous role; as Special Commissioner for Metal Substitutes, he utilized in the interest of autarchy the research Krupp had done in metal substitutes and alloys.

Relations between Hitler himself and members of the Krupp firm became, if anything, even closer than before. Erich Mueller was increasingly called on by Hitler during the war years for consultation prior to major decisions. According to a Krupp document—

> "The Fuehrer desired to obtain information directly from Krupp on what was technically possible, and then, having heard the military authorities, to make his decisions."

The close connection between Krupp and Hitler was utilized to secure the exploitation of the material resources and labor of the occupied countries in the manufacture of munitions with a view to the ultimate aggrandizement of Krupp. Plants, factories, and mines in the occupied territories were used to supplement Krupp facilities in Germany. At the same time, the inhabitants of these countries were deported to replace German workers in Krupp factories. A report of the board of directors for 1941 reads:

> "Numerous raw material sources at home, in occupied territories, and in neutral foreign countries were broadened or opened up by us alone or with our assistance, at great cost. Positions which workers vacated in order to report for military

service we filled with forces whom we trained, with women, with foreign labor, and prisoners of war."

In 1941 the report for the war material department headed by Erich Mueller stated that—

> "A further means toward intensified production to be practiced still more extensively is the subletting of the manufacture of consumer goods to occupied and controlled territories of Europe, including, more recently, the U.S.S.R."

By 1942 these plans had further developed. The Krupp report for that year reads, in part:

> "We have undertaken to erect and run, at the expense of the Army High Command, a munition production plant in Mariupol, Ukraine, the Azov II, a foundry which we administer as sponsors and trustees on behalf of the Berghuette Ost."

While Krupp was expanding in the occupied countries, it was also using the requirements of the war to obtain new facilities within Germany. Long before the war, Krupp had been anxious to build a new main plant since the Gusstahlfabrik built in an earlier era was not altogether suited to modern production methods. The war gave it the opportunity to effect this expansion. With the blessing of Hitler and the assistance of concentration camp labor a new plant, known as the Berthawerk, was started at Markstaedt, near Breslau in Silesia. Upon its completion it, like the parent plant at Essen, turned to the miserable victims of the Nazi slave labor program for its workers.

Krupp needed no urging to participate in the war crimes and crimes against humanity committed under the Third Reich in the course of the war. It aggressively sought the right to exploit the material and human resources of the conquered countries in the interest of the Nazi war machine. Thus, a report of a conference of Erich Mueller with Hitler on 14 April 1942 reads:

> "At the same conference, Dr. Mueller, on the basis of growing needs, referred to the Krupp firm's interest in starting shell production on a large scale in the Ukraine. This suggestion was gratefully accepted. Krupp is also interested in manufacturing automatic weapons in connection with a concentration camp in the Sudetengau."

We think nothing could better illustrate the truth of the International Military Tribunal's conclusion that the war crimes and crimes against humanity committed by the Third Reich after the beginning of the war, "were all committed in execution of, or in

connection with, the aggressive war."[1] He whose purpose is to bring about a war is not likely to be squeamish about the means used to bring it to a successful conclusion. As the International Military Tribunal stated in its judgment:[2]

> "* * * in this conception of 'total war,' the moral ideas underlying the conventions which seek to make war more humane are no longer regarded as having force or validity. Everything is made subordinate to the overmastering dictates of war. Rules, regulations, assurances, and treaties all alike are of no moment; and so, freed from the restraining influence of international law, the aggressive war is conducted by the Nazi leaders in the most barbaric way. Accordingly, war crimes were committed when and wherever the Fuehrer and his close associates thought them to be advantageous. They were, for the most part, the result of cold and criminal calculation."

The crimes charged in counts two and three of the indictment, accordingly, are part and parcel of count one as well, and are rightly incorporated therein by paragraph 29 of count one of the indictment. They are an integral part of the crimes against peace charged in count one. The allegations in counts two and three are, of course, independently criminal as "war crimes" and "crimes against humanity." We will next outline the evidence in support of the charges in counts two and three.

With the Court's permission, Mr. Max Mandellaub, of the prosecution staff, will continue with the reading of the opening statement.

I thank you.

COUNT TWO—PLUNDER AND SPOLIATION

MR. MANDELLAUB: Close behind the legions of the Wehrmacht, armed by Krupp, came swarms of German agents and officials, organized for plunder where the Wehrmacht had conquered. This criminal spoliation was an integral part of the program of conquest, and not an accidental by-product of war.

The charges under count two of the indictment are based upon familiar and well-established principles of international law, embodied in the Hague Conventions and other authoritative sources. Article II of the Control Council Law No. 10 includes, under the definition of war crimes, the "plunder of public or private property," and in the definition of crimes against human-

[1] Trial of the Major War Criminals, *op. cit. supra*, vol. I, pp. 254–255.
[2] Ibid., p. 227.

ity it recognizes the criminality of inhumane acts and other offenses committed against civilian populations.

On 19 October 1939, Goering, in his capacity as commissioner for the Four Year Plan, addressed to his subordinates, to the Reich Ministers, and to the business groups in which Krupp participated the following directives:[1]

> "The task for the economic treatment of the various administrative regions is different, depending on whether the country involved will be incorporated politically into the German Reich or * * * will not be made a part of Germany. In the first mentioned territories, the * * * safeguarding of all their productive facilities and supplies must be aimed at, as well as a complete incorporation into the greater German economic system at the earliest possible time."

With regard to the territories where incorporation to the German Reich was not anticipated, Goering directed that all raw materials, machines, etc., which were of use for the German war economy, should be removed. The decree continued:[2]

> "Enterprises which are not absolutely necessary for the meager maintenance of the naked existence of the population must be transferred to Germany, unless such transfer would require an unreasonably long period of time, and would make it more practicable to exploit those enterprises by giving them German orders, to be executed at their present location."

German conquest, accompanied by the policies set forth in the Goering decree quoted above, resulted in the ruin of local economy in the countries and territories occupied by Germany. The Third Reich left no doubt about its ultimate goal, and the German industrialists, including these defendants, participated in formulating and executing this policy and used it for their own purposes.

It must be borne in mind that, although the acts charged as crimes in this count were committed in the first instances against property, their impact was not felt only in terms of francs, or acres, or tons. Plunder, as charged in this count, is basically a crime not only against the individual but also against the civilian community of an occupied territory. The occupant disrupts the economic life of the subjugated people for his own purposes and makes the agricultural and industrial activities of the occupied country subservient of the occupying power. The sufferings connected with war are thereby deliberately and criminally aggravated. The seizure of factories and other capital goods, as carried

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[1] Ibid., p. 240.
[2] Ibid.

out by the Germans, had a shattering effect on all aspects of the internal economy of those nations. As the International Military Tribunal found, their resources "* * * were requisitioned in a manner out of all proportion to the economic resources of those countries, and resulted in famine, inflation, and an active black market."[1]

Summing up its findings on the over-all German program of plunder and spoliation, the International Military Tribunal stated:[2]

> "The evidence in this case has established, however, that the territories occupied by Germany were exploited for the German war effort in the most ruthless way, without consideration of the local economy, and in consequence of a deliberate design and policy. There was, in truth, a systematic 'plunder of private and public property,' which was criminal under Article 6(b) of the Charter."

In outlining the evidence under count one of the indictment, we have already described in summary fashion Krupp's seizure and exploitation of the Berndorfer metal enterprises in Austria. These and other acts of the defendants particularly in Austria and Czechoslovakia were an integral part of the invasion and occupation of those countries and accordingly fall within the scope of count one. The same acts constituted war crimes and crimes against humanity, as is charged and set forth in count two.

The defendants knew that Germany's series of aggressions called for ever increasing production; increased production necessitated more machines, more raw materials, more workshops, more workers. When the Krupp leaders asked for or received increased production quotas during World War II, they in fact asked for or received "Nazi titles" to spoliation, loot, plunder, and slave labor, since domestic sources to carry out these production quotas were known by the defendants to be entirely inadequate. This inadequacy of German vital production elements made it imperative for the German war leaders, both military and economic, once they had decided to engage in an aggressive war, to despoil each occupied country of its very economic substance in the interest of German victory.

It is not our purpose now to give a detailed picture of all the plunder and spoliation in which Krupp took part. At this time, we will confine ourselves to a sketch of the evidence in three countries—France, Holland, and the Soviet Union. The acts charged against the defendants under count two were not con-

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[1] Ibid.

[2] Ibid., p. 239.

fined to these countries, nor to the specific examples which we will now outline. But the evidence with respect to other countries and other examples may await its actual presentation during the trial.

A. FRANCE

German plunder and spoliation in the West, and especially in France, was at first cloaked by the official catch-word "collaboration." Thus, the techniques utilized by the Germans in the West were at first more indirect than in the eastern occupied territories in order to give a semblance of legality to their activities. But the ultimate goal was the same in both cases, and in France just as everywhere else, Germany's aim was the widest possible use of French facilities for the German war machine.

This purpose clearly appears from the basic decrees of the Third Reich issued at that time, and particularly from Goering's decree of 6 August 1940 entitled "Systematic Spoliation of the Economy of the Occupied Western Territories for the German War Economy," which stated in part:

> "It is a necessity of high political importance that the capacities and raw materials in the occupied western territories shall be employed systematically and to the greatest extent in order to help the German war production and to raise the war potential for the fulfillment of the demands to be made in the interest of further warfare. The High Command of the Armed Forces (OKW) and the Reich Minister for Weapons and Ammunition have already published the directives necessary in this connection."

German industrialists took an intense interest in the execution of decrees such as the one just quoted, and many of them started in advance to mark out areas, spheres of interest, or particular enterprises which they wished to take over as part of the "spoils of war." The avidity of some of the industrialists was so marked that in June 1940, both Goering and Walther Funk were forced to caution important German businessmen "that no excesses should occur which might give an opening to the opponents of private enterprise," and that "one should seek now to suppress all lust for annexation." Funk's warning was delivered at a meeting of the so-called Kleiner Kreis, of which the defendant Loeser was a member as Krupp's representative.

During the trial, we shall offer evidence of a number of examples of Krupp's participation in German plundering activities in France. For present purposes, one example will suffice.

One of the greatest textile machine factories of continental Europe was the French Société Alsacienne des Constructions Mécaniques, later known as ELMAG A.G., the plants of which are located in and near Mulhouse in Alsace. The ELMAG was taken over by German commissioners, operating under the German chief of civil administration in Strasbourg. soon after the German occupation of Alsace. In March 1943 the Krupp directors, including the defendants Alfried Krupp, Loeser, Houdremont, Korschan, Mueller, and Pfirsch, determined that Krupp needed additional plant facilities, and inspected the Tatra works in Czechoslovakia and the ELMAG plants in Alsace. As a result of strong pressure on the government, the German civil administration in Alsace turned the ELMAG plants over to Krupp under a lease. The German Civil Administration and the Krupp firm were totally and equally without legal authority to dispose of the French ELMAG properties which had been unlawfully seized, and the rights of the French owners were completely disregarded at all times. Under Krupp management, ELMAG's traditional production of textile machinery was radically changed, and was converted almost entirely to the production of military vehicles and other war material.

In the fall of 1944, Allied troops had penetrated to the Vosges mountains and the German hold on Mulhouse was seriously threatened. On 2 September 1944 a Krupp representative in Berlin informed the defendants Alfried Krupp, Eberhardt, Janssen, Houdremont, Mueller, and Ihn that, on the authority and the request of the Speer Ministry, "the military tractor production should be immediately evacuated from Mulhouse." Thereupon, not only did the Krupp managers evacuate from Alsace the German machinery which had been brought there, but also a very large amount of the French machinery of the ELMAG plants which had been there since before the German occupation, as well as other French machinery. A substantial amount of this valuable industrial loot was thereafter utilized in Krupp plants located within the Reich.

B. HOLLAND

In Holland, principal feature of the German program of plunder was the actual confiscation of raw materials, semifinished products, and machinery, and the removal of such goods from Holland to Germany. The Krupp firm was well prepared to participate in these activities, because of its long standing business connections with Dutch firms and banks, as well as extensive ownership interests in Holland. Local representatives of Krupp in Holland were in a position to inform the German occupation

authorities where useful stores of materials and products were located and available for seizure.

In large measure, the activities described above were carried out in Holland from 1942 to 1944 through and by means of what was known as the "Lager-Aktion." This was a requisition action chiefly for the benefit of the German iron and steel industry, and in the course of it, nearly 400,000 tons of steel, and iron tubes and pipes, sheet metal, and other iron and steel products were shipped to Germany. The Lager-Aktion was carried out through the "Rijksbureau voor Ijzer en Staal", [Reich Bureau for Iron and Steel] a German controlled office in Holland which acted under the direction of the German occupation authorities and which ordered Dutch firms to deposit specific types of iron and steel materials at various collection centers. This officer, in turn, was connected with the Reichsvereinigung Eisen (RVE), of which Alfried Krupp was deputy chairman.

The Rijksbureau sent lists of available confiscated materials to the RVE, the members of which, including Krupp, thereupon sent representatives to Holland to select the materials wanted by each firm. A large share of the products so seized were allocated to Krupp. The Krupp firm paid a price fixed by the German-controlled Rijksbureau, which the Dutch owners had to accept without prior negotiations. The forced purchases carried out under the Lager-Aktion were clearly unlawful under Articles 46, 52, and 53 of the Hague Convention.

The general point of view held by Krupp officials with respect to the sanctity of private property in Holland is reflected in the following letter to the defendant Loeser from his subordinate, one Schroeder, written after a visit to Holland and inspection of a Dutch shipyard in June 1942. Schroeder wrote to Loeser (*NIK–5997, Pros. Ex. 814*):

> "The owner of all shares (55,000 guilders) is Mr. Wortelboer, a Dutchman. Obviously, he has no interest in furthering the plans of the German Navy. * * * Cooperation with W. [Wortelboer] doesn't appear possible to us. * * * On the other hand, we would be interested in purchasing this shipyard if we can get it at an acceptable price. Dr. Knobloch shall communicate our impressions to the German Navy and shall propose that the German Navy exercise a certain amount of pressure on W. [Wortelboer]. * * * Maybe Mr. Wortelboer shall then weaken and find himself ready to sell. * * *"

During the last phase of the German occupation of Holland in 1944 and 1945 when the German industrial area of the Ruhr was undergoing heavy air attacks and was threatened by the

Allied armies, the Germans inaugurated an even more ruthless program of plunder entitled the "Ruhrhilfe-Aktion." [Ruhr Assistance Action]. These confiscations of Dutch machinery and tools for removal to the Ruhr were carried out by open force and constituted plain plunder. Krupp took part in the Ruhrhilfe-Aktion, particularly in the plundering of large Dutch factories in Hilversum, Rotterdam, Dordrecht, and Gorinchem.

C. SOVIET UNION

German plunder in the Soviet Union, in contrast to the somewhat more devious techniques utilized in the West, was conducted with complete openness and with no attempt to comply, even superficially, with the requirements of international law. Indeed, the Third Reich flatly took the position that the Hague Conventions were not applicable at all. At the time of the attack on the Soviet Union, the government of the Third Reich issued a general directive concerning the administration of the occupied Soviet territories which stated, in part:

> "The regulations of the Hague Convention on land warfare which concern the administration of a country occupied by a foreign belligerent power are not applicable, since the U.S.S.R. is to be considered dissolved, and therefore, the Reich has the obligation of exercising all governmental and other sovereign functions in the interests of the country's inhabitants. Therefore, any measures are permitted which the German administration deems necessary and suitable for the execution of this comprehensive task."

These unlawful policies were not kept secret, but were proclaimed from the housetops. On 17 July 1941, Hitler publicly stated:

> "On principle, we have now to face the task of cutting up the giant cake according to our needs in order to be able firstly to dominate it, secondly to administer it, and thirdly to exploit it."

The following year, on 20 May 1942, Goering issued a decree setting forth the economic methods by which the occupied territories of the Soviet Union were to be exploited.

> "Property still to be sequestrated or already sequestrated became available for the struggle against communism in consequence of the commitment of the entire German people. It is therefore to be treated as the marshalled property (Sondervermoegen) of the Reich. The proceeds arising from a subse-

quent disposal of this property shall be applied to the account of war expenditures."

Paralleling this decree of Goering, Reich Minister Rosenberg promulgated the regulation that—

> "The entire movable and immovable property of the U.S.S.R., its member states, corporations, associations, and societies which have served the purposes of economy, shall constitute within the Occupied Eastern Territories, which are subject to the jurisdiction of the civil administration, a marshalled property—property marshalled for national economy." (Wirtschaftssondervermoegen)

To summarize, there can, we believe, be no argument upon the point that the German economic program in the Soviet Union and its execution were openly and avowedly in violation of the laws of war and the Hague Conventions. It is also clear that the German program for exploitation of the Soviet Union constituted an integral part of the planning and waging of aggressive war against that country. As the International Military Tribunal stated: *

> "The plans for the economic exploitation of the U.S.S.R., * * * were all part of a carefully prepared scheme launched on 22 June 1941 without warning of any kind and without the shadow of legal excuse. It was plain aggression."

The government of the Third Reich set up a variety of quasi-governmental agencies and "monopoly organizations" to carry out the program for the exploitation of the Soviet economy. One of these agencies, the Berg- und Huettenwerke Gesellschaft Ost (commonly known as the BHO), was entrusted with "the task of managing, in the interest of the German war economy the Russian coal and iron industry, as well as the mining of iron ore". The BHO was established in August 1941; its articles of incorporation and the general decrees under which it was established clearly set forth the unlawful results which it was designed to achieve. And it was through the BHO that the Krupp firm effected some of its more important spoliation acquisitions in the Soviet Union.

In August 1942, a meeting was held in the office of the defendant Loeser for the purpose of discussing the administration, by Krupp, of important factories in the Ukraine which had been allocated by the Reich to the Krupp firm. The defendant Korschan was empowered to establish policies in these Ukranian

* Ibid., p. 215.

plants, supervise distribution of raw materials, and decide financial matters. That the defendants had in mind ultimate acquisition of the Russian plants is clear from a note in the Krupp files dated 20 August 1942, which stated:

> "After a discussion with Dr. Loeser and Dr. Janssen on 19 August in Berlin, Mr. Engelking and a member of our plant, perhaps Mr. Muth, will be sent immediately to Russia with the object of securing from the military authorities of the occupied territories the allocation to Krupp-Stahlbau of one of the larger steel construction factories. Thus, an accomplished fact would exist when the plants are to be allocated later on."

A few weeks later, in September 1942, at a meeting attended by the defendants Alfried Krupp, Loeser, Pfirsch, and Eberhardt, there was further discussion of plans for the production of munitions in the Ukranian factories. It was decided that Krupp would form a new corporation to which the Reich would transfer the Ukranian plants for the purposes of operation and management. Still later, in October 1942, the defendant Eberhardt met with officials of the BHO and reported to the other defendants the wish of the Reich Government that Krupp should administer certain factories in the Ukraine at Mariupol as "a department Krupp within the BHO," but on an "independent" basis.

The consummation of Krupp's plans for the seizure of industrial resources in the Soviet Union was frustrated by the expulsion of German troops from Soviet territory and Germany's defeat in the war. As the German armies were driven back across Soviet territory, some of the seized Soviet factories were destroyed as part of a ruthless program of devastation and others were systematically looted. An example of the latter type of industrial pillage is contained in a letter of 20 September 1943 from the defendant Erich Mueller, which came to the attention of the defendants Janssen, Houdremont, Korschan, and Eberhardt. In this letter Mueller reported that a number of freight cars full of machinery seized from the Ukranian plants administered by Krupp during the occupation of Soviet territory had arrived at Auschwitz in Poland. The letter went on to suggest certain arrangements which should be made to insure that the machinery so seized could be secured for the Krupp enterprises within the Reich.

Alfried Krupp and the other defendants named in count two knew that they were violating international law by participating in the ruthless exploitation of the conquered territories. On 2 August 1943, the Verbindungsstelle Eisen fuer Schrifttum und

Presse, Berlin, an organization which provided important Nazi industrialists with confidential and secret information, and for which Friedrich von Buelow was the Krupp liaison officer, transmitted to Alfried Krupp an article from the British paper, *The Financial News,* of 15 July 1943. This article, translated for Alfried into German and captured after the war in a confidential folder of Alfried Krupp, reads in part (*NIK–13025, Pros. Ex. 821*):

> "Sooner or later, the Allies will have to draw their lists of war criminals. While those who are responsible for executions and tortures, for acts of unprovoked aggressions, will be dealt with first, it is to be expected that those who have ordered or executed looting of all sorts will not be overlooked. It is an undisputed principle that participation in spoliation of occupied territories is considered to be a war crime."

With the permission of the Court, I will hand over the reading to Mr. Russell Thayer.

COUNT THREE—DEPORTATION, EXPLOITATION, AND ABUSE OF SLAVE LABOR

MR. THAYER: May it please the Tribunal. Under count three of the indictment, the defendants are charged with crimes which are recognized as such not only under international law, but by the ordinary penal laws of all civilized nations. The Hague and Geneva Conventions contain numerous applicable provisions with respect to the treatment of prisoners of war and the civilian population of occupied countries. The definitions of "war crimes" and "crimes against humanity" in Article II of Control Council Law No. 10, specifically prescribe "murder, ill-treatment or deportation to slave labor or for any other purpose, of civilian populations from occupied territories, murder or ill-treatment of prisoners of war" and "extermination, enslavement, deportation, imprisonment" and "other inhumane acts committed against any civilian population, or persecution on political, racial, or religious grounds." The evidence under this count relates primarily to the use and abuse of prisoners of war, and the enslavement and deportation to slave labor and mistreatment of many thousands of civilians in and from the countries occupied by Germany and concentration camp inmates.

The slave labor program of the Third Reich was the revolting offspring of the aggressive wars which it planned and waged. It was designed to keep the German war machine rolling at the

frightful expense of the freedom and lives of millions of persons. The tyranny and brutality of Nazi conquest was felt by them not only in their own homelands of France, Belgium, Holland, Russia, Poland, Czechoslovakia, and Denmark. Hundreds of thousands suffered the additional misery of being torn loose from homes and families and shipped to Germany into slavery and often to a miserable and premature death.

An important section of German war production was that which these defendants primed with thousands of slave workers—prisoners of war, concentration camp inmates, Italian military internees, and foreign civilians from occupied lands. These crimes are no greater nor worse, perhaps, than others charged in the indictment; but here in the documents and testimony the human factor is more sharply defined; the harsh bark of the oppressor and the sharp cry of pain of the individual victim will be heard.

During the early years of the war, there was unquestionably a large number of workers who, faced with a choice between work at plants in Germany or withdrawal of ration cards and starvation, or hunting by the Gestapo at home, chose to work in Germany. It requires no deep perception to see that these were not free men; and not even the Nazi slave drivers pretended very vigorously that these were voluntary workers.

The prosecution in this case does not believe that any end of justice requires an exact determination of the percentage of voluntary foreign workers who actually, of their own free will and not simply in making an unlawfully required choice between the lesser of two or more evils and unlawful alternatives, chose to work in Germany. Moreover, the question of involuntariness of foreign workers is dependent not only upon the original method of recruiting, but also upon the methods whereby these workers were kept at their jobs in Germany. The involuntariness, by and large, is unquestioned; and has been determined by the International Military Tribunal's judgment.

In respect to concentration camp inmates the SS practice until 1942 was one of extermination by relatively quick means. At that time, a decision was made to exploit also the labor resources of these victims; and in such a way as to get a lifetime of work out of a man in a few short months. This was a policy combining work and extermination through work. The International Military Tribunal said of treatment, in general, of civilian slave labor in Germany:*

> "Theoretically, at least, the workers were paid, housed, and fed by the DAF, and even permitted to transfer their savings

* Ibid., p. 246.

and to send mail and parcels back to their native country; but restrictive regulations took a proportion of the pay; the camps in which they were housed were unsanitary; and the food was very often less than the minimum necessary to give the workers strength to do their jobs."

A long time has passed since slavery was common in the civilized world. The term "slave labor" is a convenient abbreviation adopted by the International Military Tribunal, both for the several closely related crimes connected with employment and charged as offenses against persons, and, also, for describing the several groups of persons against whom these offenses were committed. Enslavement is only one of the offenses charged against these defendants under Article II, paragraph 1(*b*) and (*c*) of Control Council Law No. 10.

Military Tribunal II, in its judgment in Case 4, characterized slavery in these words:*

> "Slavery may exist even without torture. Slaves may be well-fed and well-clothed and comfortably housed, but they are still slaves if, without lawful process, they are deprived of their freedom by forceful restraint. We might eliminate all proof of ill treatment, overlook the starvation and beating and other barbarous acts, but the admitted fact of slavery * * * compulsory uncompensated labor * * * would still remain. There is no such thing as benevolent slavery. Involuntary servitude, even if tempered by humane treatment, is still slavery."

Prisoners of war may be fairly regarded as slave labor when forced to labor subject to conditions or treatment forbidden specifically by written law or the laws of humanity. The Geneva Convention of 1929 plainly forbids the use of prisoners of war in labor directly related to war operations, in the manufacturing and transporting of arms or munitions of any kind, or in dangerous work or places. This Convention sets out in some detail the minimum standards of treatment for prisoners of war.

Foreign civilians in or from occupied territories and prisoners of war are both protected by the Hague Conventions of 1907, to which Germany was a party. They represent a codification of the determination of civilized men to value human life and dignity and to lessen suffering; so far as possible even during war. The Conventions did not foresee these recent reversions to barbarism, nor spell out the prohibitions against the crimes which the Third Reich and these defendants devised. Nevertheless, the

* United States *vs.* Oswald Pohl, et al., Case 4, vol. V.

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Convention does prohibit such excesses of occupying military forces. Article 46 requires respect for "family honor and rights, the lives of persons and private property, as well as religious convictions and practice * * *." Article 52 provides*—

> "Requisitions in kind and services shall not be demanded from municipalities or inhabitants except for the needs of the army of occupation. They shall be in proportion to the resources of the country, and of such a nature as not to involve the inhabitants in the obligation of taking part in military operations against their own country."

It is clear that deportation, enslavement, and exploitation in Germany were impositions of services upon the inhabitants of an occupied country which were neither for the needs of the army of occupation, nor in proportion to the resources of the country. When married persons or children were so treated the rights of the family were certainly violated.

Law No. 10 and the Hague Conventions are, of course, only a part of the law which prescribes the crimes here charged. Deportation, enslavement, and brutal mistreatment are crimes under the general principles of international law and under the domestic laws of all civilized nations.

The progressive draining of Germany's manpower resources caused labor to become the main bottleneck in production, and manpower became the key to the problem. The defendants Alfried Krupp, Loeser, Houdremont, Ihn, and von Buelow, through the RVK, the RVE, and other industrial associations, addressed themselves vigorously to its solution. These associations brought the combined pressure of the industries concerned to bear on all agencies involved in the recruitment and allocation of slave labor. The representatives of the RVK and the RVE joined with representatives of the Wehrmacht and the SS in the forcible procurement of workers. In his capacity as deputy chairman of the RVE, the defendant Alfried Krupp represented the RVE on numerous occasions, at meetings of the Central Planning Board, and was referred to by Albert Speer as one of the "three wise men" of the RVE.

At these meetings, the representatives of the RVK and the RVE submitted their demands for manpower, and participated actively in the criminal planning and demands of the board for the procurement and allocation of slave labor. On 22 July 1942,

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* Annex to Hague Convention No. IV, 18 October 1907 (36 Stat. 2277; Treaty Series No. 539; Malloy Treaties, vol. II, p. 2269) as cited in U. S. Army TM 27-251, Treaties Governing Land Warfare (U. S. Government Printing Office, Washington, 1944), Article 52, p. 33.

the defendant Alfried Krupp, representing the RVE, attended a session of the Central Planning Board together with Speer, Sauckel, Milch, Koerner, and others, in the course of which it was decided to impress 45,000 Russian civilian workers into the steel plants, 120,000 prisoners of war and 6,000 Russian civilians into the coal mines, and to place the medical standards for recruiting prisoners of war lower than those required of Germans employed in coal mines.

The defendant Alfried Krupp attended with regularity the meetings of the RVE, and was given full reports of meetings which he missed. Circular letters, reports, and other documents, issued by the RVE on the treatment of foreign workers, reveal his knowledge of and responsibility for the labor program as adapted to the iron industry. On 4 October 1943 the RVE issued a confidential letter, signed by Roechling, addressed to all member plants, concerning the treatment of foreign workers. After referring to "breaches of contract" by such workers, Roechling declared (*NI–3178, Pros. Ex. 630*):

> "Improper conduct on the part of the workers is immediately to be called to attention and severely punished; if necessary, by confining to concentration camps. Repeated and serious misconduct by foreigners, especially disappearing from work must be reported by the plants without delay to the Gestapo."

Another confidential letter from the RVE, dated 21 October 1944, and addressed to defendant Buelow (*NIK–11268, Pros. Ex. 626*), advised him to "immediately report to the Gestapo all unreliable foreign workers." The letter contains marginal notes from von Buelow to Wilshaus to the effect that "this order can only induce us to take more severe measures in such cases than we have done up to the present".

The extent of the slave labor program in Krupp's own plants can be measured only approximately; complete central records have not been found. Records at Essen, however, reveal that on one date about 75,000 slave workers were being utilized in Germany by Krupp. Other records and testimony which the prosecution will present bring the total to about 100,000 persons exploited as slaves by Krupp in Germany, in countries alien to them and in concentration camps. The proportion of such labor at Krupp plants in Germany averages around 40 percent of the total work rolls; at the Bertha Works and Auschwitz it was about 80 percent. When it is considered that records are missing and that there was a rapid turnover from deaths, escapes, abandonment of old and establishment of new plants, the total number of Krupp slave workers must have been far greater. The vast

number of foreign workers exploited in their own countries, and placed under restrictions frequently bordering upon slavery, are not included in these figures.

Krupp plants in Germany employed at least 70,000 foreign civilian workers from the countries under German occupation; first Poles, then Frenchmen, Belgians, Danes, Hollanders, Luxembourgers, Czechs, Slovaks, Russians, Ukranians, Lithuanians, Yugoslavs, Greeks, and Italians loyal to the Badoglio government. The Krupp plants also employed at least 21,000 French, Russian, and Yugoslav prisoners of war; over 2,000 Italian military internees, who were regarded nominally as prisoners of war until 1944; and over 5,000 concentration camp inmates and so-called political prisoners of many nationalities. Nearly every Krupp plant in Germany employed involuntary foreign labor. We have evidence concerning foreign slave workers in over 76 plants in Germany and three in France; of the unlawful employment of prisoners of war in about 58 plants in Germany and the occupied countries; of concentration camp inmates in at least five plants in Germany, at a plant in France, and another at the infamous Auschwitz in Poland; and of the use or proposed use of concentration camp inmates elsewhere in Poland and in the Sudeten area of Czechoslovakia.

It is not to the credit of these defendants that they did not personally deprive families of their ration cards; nor that the iron hand which reached into the kitchen or the public hall in every occupied country of Europe and actually grabbed the man by the scruff of the neck was a soldier, Gestapo, SD, or other government agent. Ordinarily the defendants left this dirty work to the Gestapo, SD, and the labor offices, using the defendants von Buelow and Lehmann as intermediaries. They obtained forced labor from Czechoslovakia for Essen and later shipped 1,000 Czechs across Germany to Markstaedt; they continually moved slave labor about according to their whims. In reports from the ELMAG plant in late 1944, the defendants Alfried Krupp, Houdremont, Mueller, Eberhardt, and Ihn, among others, were regularly informed of Krupp transfers of eastern workers from France to the Krupp-Suedwerke in Nuernberg and vicinity. A Krupp document, dated 24 April 1942, is headed "Holland-Sauckel Operation" and urges shipment to Essen of 1,300 Dutch metal workers.

These defendants cannot say that they believed that this labor was voluntary. The defendant Lehmann, in December 1942, made reports to the defendants Alfried Krupp, Loeser, Mueller, and Ihn referring to the levy of French workers about to be made at the demand of Sauckel. The defendant Alfried Krupp was so

informed—not for the first time—by a distant Dutch relative who turned up as a forced worker in another Essen plant. They knew of the forceful recruiting and the deportations. Later they saw the contracts forcibly extended and leaves forbidden so that, had there been free workers, they were so no longer.

From the beginning the defendants saw Poles, then Russians and other eastern workers imprisoned in camps enclosed by barbed wire; forbidden to leave the camps, except under guard; marched long miles to work wearing their badge of special persecution, "Ost". After Sauckel finally ordered removed, for morale purposes, some of the outward *indicia* of the slavery in Germany of eastern workers—the barbed wire around their camps—it required a personal inspection at Essen, and a personal order to the defendants, before that order was complied with by the Gusstahlfabrik. They saw enemy nationals doing work for a hated and aggressive Germany which only traitors would have done voluntarily—and they knew from their constant efforts to punish so-called "loafing" that not many of these enemies were eager to work for Germany and for Krupp. The statistics alone show that foreigners did not come voluntarily in any number. There were 95 French civilian workers at the Gusstahlfabrik on 1 January 1942. In September 1942, the Sauckel-Laval Decree providing for forced labor in Germany from Frenchmen went into effect; and in December 1942 there were 4,823 French civilian workers at the Gusstahlfabrik.

Large numbers of prisoners of war who had no proper training as miners were sent into the mines. The defendants even went beyond the requests of party and military commanders; and when German workers were demanded from Krupp to labor on the West Wall fortifications, Krupp answered that Germans could not be spared, but Italian military internees would be sent instead.

A report by the chief camp physician to persons including the defendants Ihn and Kupke states in part:

> "The prisoner of war camp in the Noeggerathstrasse is in a frightful condition * * *. Krupp is responsible for housing and feeding * * *. It is astonishing that the number of sick is not higher than it is, and it moves between 9 and 10 percent."

A Krupp file note of the cast steel works, Gusstahlfabrik, 15 October 1942, concerns a "telephone call by Colonel Breyer of the Supreme Command of the Armed Forces, Department Prisoners of War, Berlin" for the defendant von Buelow (*NIK–12356, Pros. Ex. 904*):*

* Document reproduced in section VIII G 1.

"Oberst Breyer who wanted to talk to Mr. von Buelow, requested me to pass on the following to Mr. von Buelow:

"The Supreme Command of the Armed Forces has lately received from their own offices and recently also in anonymous letters from the German population, a considerable number of complaints about the treatment of POW's at the Krupp firm (especially that they are being beaten, and furthermore that they do not receive the food and time off that is due to them * * *). None of these things occurs anywhere else in Germany. The Supreme Command of the Armed Forces has already requested several times that full food rations should be issued to the prisoners."

The usual Krupp camps for foreign workers and prisoners of war were in many respects prisons, but Krupp also maintained jointly with the SS or Gestapo actual concentration camps in Essen and at several of its plants. In 1944 the defendant Lehmann went to Gelsenberg concentration camp to pick out slave workers. Other Krupp employees involved in picking concentration camp inmates at Gelsenberg reported to Krupp that the women inmates were unfit for the work in prospect at Essen. Nevertheless, the SS negotiated with the defendant Ihn, and Krupp provided German women employees to train as SS guards. When the SS sent to Essen 520 Hungarian Jewish women and girls, some of them only 14 years old, the defendants established the Labor Kommando [detail] Krupp, Essen of the Buchenwald concentration camp. They were shorn of their hair, dressed in ragged concentration camp clothes, and almost barefoot. The defendants treated them abominably while they were under their care; and they forced them to do hard labor, including carrying great loads of stone up three stories. They were forced to live in unimaginably bad conditions—without sanitation, part of the time in an unheated cellar. As the Allied armies approached, and they needed their labor no longer, several of the defendants—including Janssen, Lehmann, and Houdremont—discussed a report that these women were to be slaughtered by the SS. They decided to abandon the women to the SS, and followed the defendant Houdremont's instructions to get them out of Essen. Four [six] of the girls escaped beforehand, but the others cannot be traced beyond the Bergen-Belsen concentration camp. At least one of the four who escaped will testify before the Tribunal.

At a special labor allocation officers discussion, in January 1944, reported to the defendants Alfried Krupp, Houdremont, Mueller, Janssen, Ihn, Eberhardt, and Lehmann, the defendant von Buelow took the floor for a lecture about combating of idlers. I quote from the report:

"Foreigners must be treated with greater severity and strictness. For them, punishment away from work is especially suitable. Dechenschule will become a penal camp for eastern workers and Poles, under the supervision of the Gestapo. They are to be cared for by the main administration for the workers camps and plant security police. Special labor allocation officers are invited to enumerate especially difficult and dirty work for which these foreigners may be used in groups of 50–60. Reports to be made to Mr. v. Buelow."

The defendant von Buelow was the principal overseer of this camp for Krupp; but it had been established by the defendant Ihn; and was under the administration of the Lagerfuehrer [chief of camp], the defendant Kupke. To fill the requirements of Krupp for labor, there were fed into this camp (besides the eastern workers and Poles) political prisoners picked up in raids in other countries. Krupp guards and trucks participated in the deportations. Some of the inmates of this camp—and a similar camp of Krupp's at nearby Rheinhausen—who had been seized by the Gestapo as hostages, or simply as available manpower in Belgium and Holland, will testify to their seizure, deportation, and the heavy work and vile treatment in Krupp plants and the deaths of many of their comrades.

In October 1943 the defendant von Buelow concluded an agreement with one Captain Borgmeier [Borchmeyer] regarding the punishment of prisoners of war employed in the Krupp plants. The agreement stated that, where a prisoner of war had offended in such a manner that minor disciplinary measures would not suffice, then the prisoner of war (*NIK–12362, Pros. Ex. 998*)*—

"* * * will be turned over to a military court * * *, except the Russians, who are to be brought before the State Police. In such cases, the State Police always imposes the death sentence, for the execution of which a Kommando [detachment] of other Russian prisoners of war may be used."

Von Buelow embodied the terms of this agreement in a note to the defendant Lehmann, adding:

"I wish to request that in the future such cases be handled according to the concluded agreements. However, I request that the contents of this note be treated as confidential, particularly in view of the death penalty."

Krupp's largest concentration camp was at the Bertha Works, in Markstaedt; 5,000 concentration camp workers participated

* Document reproduced in section VIII C 1.

in building the plant. When the time came to commence production, the proposal to use concentration camp labor, which had been forwarded by the defendant Korschan and approved first by the defendant Mueller, was then approved by the Vorstand in Essen; and thousands of concentration camp inmates were then established in camps, including Fuenfteichen as Aussenlager (annexes) of the notorious Gross-Rosen concentration camp.

Not content with exploiting concentration camp labor in its permanent plants, Krupp actually went inside the confines of the concentration camps to establish plants. In 1942 the defendant Mueller reported upon a project to make parts for automatic weapons at the infamous Auschwitz concentration camp, and the defendants Alfried Krupp and Loeser approved an appropriation of two million marks for this purpose. In 1943 these plans were successfully carried out; it was to this plant, at Auschwitz where the greatest and most horrible exterminations of all time occurred, that these defendants arranged with the Speer Ministry to transfer some 500 Jews who had been working in or near Berlin. A report to the defendants Mueller, Eberhardt, and Pfirsch, dated 16 March 1943, stated:

> "Obersturmfuehrer Sommer received the lists sent to me by Dr. Wieland, Special Committee M 3, of Jews who have been employed by the firms Krone-Presswerk and Graetz (about 500 workers) who are to be transferred to Auschwitz for the purposes of employment in the proposed manufacture of fuses.
>
> "About 14 days ago, all Jews were transported from Berlin, and according to the statements of the SS they are for the most part already in the Auschwitz camp. Obersturmfuehrer Sommer again pointed out that when establishing a fuse manufacturing plant in Auschwitz, we could count on the full support of the SS, and he requested immediate action in case any assistance from his office became necessary."

Having experienced the benefits of exploiting concentration camp labor, the defendants used such labor at several other Krupp plants, including Geisenheim, Norddeutsche Huette, Deschimag, and Weserflug. They obtained concentration camp inmates for use even in plants in occupied countries, as at ELMAG in Mulhouse, France.

The defendant Ihn reported on a conference on this subject at his office on the afternoon of 5 July 1944, at which the defendants von Buelow and Kupke were present. This report, which is marked for distribution to, among others, Alfried Krupp von Bohlen, Janssen, Houdremont, Mueller, von Buelow, and Kupke, stated in part:

"Subject: Allocation of prisoners, etc. The situation is as follows:

"1. *2,000 concentration camp inmates*—Standartenfuehrer of the SS, Pister, commander of concentration camp Buchenwald * * *, with which we have to deal, was here on the afternoon of the 4th of this month * * *. He promised us the allocation of 2,000 Hungarian and Jewish prisoners (men).

* * * * * * *

"*b*. We pay RM 4.00 per day for each prisoner, including all social welfare dues such as for sickness and accident insurance, etc.

* * * * * * *

"2. Five hundred concentration camp prisoners (women) who are to be allocated to us by the main committee for weapons.

"3. Five hundred convicts requested by Mr. A. von Bohlen from the office of District Attorney Joel, Hamm.

"District Attorney Joel has offered the prospect of several hundred convicts. A conference with him is to take place in the week of 9–15 of this month. Mr. von Buelow and Kupke of the Gusstahlfabrik are to handle the negotiations.

* * * * * * *

"4. Four hundred and forty convicts (prisoners from the penitentiary at Koenigsberg). Mr. Vorwerk, of the Friedrich-Alfred-Huette will study the question of whether the F.A.H. can receive an allocation of concentration camp inmates and convicts. The Gusstahlfabrik will, if necessary, try to help in solving this problem.

"Messrs. Guenthep and Graefe, Geisenheim, are negotiating with the concentration camps of their district. Although the discussions have so far had negative results, Geisenheim will continue, from there, to study the question. Not until everything else has failed will the Gusstahlfabrik offer its aid, if necessary."

The treatment accorded to Krupp slave labor was inhumane and unlawful. Harsh directives were often issued by the government; but the application of these measures and the implementing of them was the responsibility of these defendants. The shelter was seldom adequate for human beings. An official inspection committee reported that, of Krupp camps, most were substandard, and only one provided good shelter.

The medical care was confined chiefly to inspections by doctors who usually ordered the slave workers to report for work. A

Krupp physician refused to enter an Essen camp because it was so verminous. The food was inadequate and bad; and the withholding of food was common punishment, particularly to increase production. One witness will tell of pitch-forking dirty, decaying spinach from a wagon directly into the cooking pots, and of how it was fed to human beings without washing. No wonder that disease and dysentery were rife. A medical report of 15 December 1942, marked for the special attention of the defendant Ihn and initialed also by the defendant von Buelow reads, in part, as follows (*NIK–9301,* Pros. Ex. 968):*

> "An eastern worker died suddenly in the wheel-set shop 3 days ago. In order to determine whether or not the death had been caused by carbon-monoxide poisoning a post-mortem examination was made by Dr. Husten, the association's specialist in pathological anatomy. In this post mortem no indications, microscopic or otherwise, of carbon-monoxide poisoning were found. The blood analysis also had a negative result. No organic ailment of any other kind was found, although a condition of malnutrition to an extreme degree was determined. The fat tissue had disappeared from the entire organism and only a so-called gelatinous atrophy was left. The liver was small, lacking fat and glucose; the musculature was weak.
>
> "It is worth noting that this Russian is supposed to have been here in Essen for 5 months. The case shows that eastern workers who arrive here in a severely reduced state of health in general cannot be restored to a normal condition of nutrition by means of the diet offered.
>
> "The Russian's organism could not store up even the slightest amount of energy reserves in fat or carbohydrates. Moreover, the inferior endurance of the Russian led to an incorrect estimate of his working capacity."

In a camp maintained by Krupp for the children of eastern workers, the children were often permanently separated from their parents. This camp, "Voerde-West," was approximately 60 kilometers from Essen, and it was almost impossible for the workers to visit their children there. Moreover, the mothers were moved without their children, at the whim of the defendants, to other Krupp plants; and the children were, likewise, turned over to the Reich authorities and removed without the knowledge of the parents. At Voerde-West, the children died by the scores of disease and neglect.

An excerpt from the proposals for the special labor allocation meeting of 12 January 1944 reads:

* Ibid.

"The following arrangement of shifts should be considered ideal.

1. German women—from 0600–1200 o'clock.
2. German women—from 1200–1800 o'clock.
3. Foreign women—from 1800–0600 o'clock.

"This time arrangement will not be objected to by the industrial supervisory agency, since no time limit as to the number of working hours for foreigners including women exists. Through this arrangement German workers who are still working in 2 or 3 shift enterprises would become free for other employment requiring little or moderate physical exertion."

All of the defendants made their headquarters at Essen, and could and did see from day to day the slave workers there. All or nearly all of them visited other Krupp plants employing slave labor. All of the Vorstand members and deputy members participated in procuring, exploiting, and mistreating slave labor—Alfried Krupp as war material and raw material chief, and later head of the whole Krupp empire and leading official in the RVE and RVK; Loeser and Janssen as chiefs of personnel, finance, and administration; Houdremont as head of the machine plants and plant leader at Essen; Mueller as onetime head, too, of machine plants, and as head of war material production; and Eberhardt as also concerned in such production at Essen, Mulhouse, Nuernberg, and elsewhere; Pfirsch as Berlin liaison man helping to get concentration camp labor; Korschan as Bertha Works chief and head of the Ukraine plants. Then there were the special labor officers—Ihn who, by his special position as chief of the personnel department and actual executor of the plant leader's functions was daily immersed in slave labor matters; von Buelow the policeman; Lehmann, who assisted Ihn generally, and had responsibility for procurement of labor and liaison with the DAF; and Kupke, head of the camps for the slave workers.

They accepted responsibility for the care and welfare of their foreign civilian labor, and a large measure of responsibility for prisoners of war and concentration camp inmates and so-called "political prisoners." They took the initiative in making requests and demands for more and more slave workers. Sometimes they specified particular categories of foreign labor which they wanted; and they always knew, after 1942, that their requisitions would be filled with foreign civilians or prisoners of war. No private individual firm in Germany was forced to accept female concentration camp inmates but Krupp took them willingly. These defendants organized in detail the exploitation of all categories of slave labor.

The first slave labor was brought to Essen after the Vorstand had considered and approved this measure. Matters of procurement, care, and treatment were thereafter frequently considered by the Vorstand, and various defendants and others were authorized to continue the program. The use of concentration camp inmates at Essen, Markstaedt, and Auschwitz was again specifically approved by the Vorstand. All expenditures of more than nominal amounts of money, it is to be recalled, were subject to approval by several Vorstand members.

No erudite legal counsel nor moral philosopher was required by these defendants to inform them that they were committing crimes against their 100,000 slave workers. They are all capable of knowing right from wrong. Some of them may have had less moral perspicacity and greater, calloused unwillingness to see the crime; others, whose conscience made them aware of the crimes, forsook the leadership of that conscience. Those defendants who were not members of the Vorstand had perhaps more knowledge of details, participated more actively in acts of brutality, but had less responsibility for the whole. These are refinements in the degree of guilt which will be illuminated as the evidence is presented. But they do not mitigate the degraded, criminal character of the wholesale enslavement for which the defendants are all responsible.

With the permission of the Court, General Taylor will conclude.

CONCLUSION

General Taylor: The charges in the indictment have been divided into three counts, because each count is legally self-sufficient, and for convenience and clarity in presenting the evidence. Viewed realistically, however, this is not three cases, but one case. The motives and ambitions underlying all three counts are the same. Men who do not stop short of enslavement are men who will have no compunctions about precipitating a war; in both cases such men may be governed by prudence and caution, but not by moral factors. Wars may not be started without a promising opportunity for victory; enslavement will not be practiced unless it brings victory a step closer. But prudence and caution are slender guarantees against ruthlessness and arrogance. And it is these latter two qualities which underlie the charges in all three counts. Germany must fight to rise, she must rise to the top, and to reach the top she must stop at nothing.

We stated at the outset that the defendants are not charged as Nazis. We are, indeed, quite prepared to assume that various aspects of Nazi idealogy or tactics may have been distasteful to

the Krupp firm and to the defendants. But this, if true, is quite irrelevant to the charges in this case. And we reiterate that the crimes here arose out of certain ideas and attitudes which form part of the Krupp tradition, and that these ideas and attitudes were also a basic part of the ideology of the Nazi Party. That is why there was something like a "coalition" between Adolf Hitler and Gustav Krupp, that is why Krupp policy and Nazi aims fused so successfully.

It is quite possible that Gustav Krupp never heard of Adolf Hitler, of the Nazi Party until years after its foundation; it is quite possible that, whenever he first heard of Hitler, he did not support the Nazis until Hitler's appointment as Chancellor. But the common ground upon which both stood was established immediately after the First World War. From then on the parallels are, in many respects, striking.

The Nazi Party program dates from 1920, when it was proclaimed by Hitler at Munich. The first two of the twenty-five points of the Nazi Party program call for "the unification of all Germans in the greater Germany" and the "abrogation of the peace treaty of Versailles." The third point calls for land and territory. The twenty-second point demanded the formation of a national army. The last (25th) point demanded "the formation of a strong central power in the Reich." This last demand led directly to the establishment of the dictatorship of the Third Reich and, as the International Military Tribunal has pointed out:*

> "The demand for the unification of all Germans in the Greater Germany was to play a large part in the events preceding the seizure of Austria and Czechoslovakia; the abrogation of the Treaty of Versailles was to become a decisive motive in attempting to justify the policy of the German Government; the demand for land was to be the justification for the acquisition of 'living space' at the expense of other nations; * * * and the demand for a national army was to result in measures of rearmament on the largest possible scale, and ultimately to war."

In 1920, when Hitler's program was formulated, Krupp had already come to the same conclusion, and was proceeding to execute them most effectively. It was already engaged in a moral struggle with the Allied representatives who were seeking to enforce the disarmament clauses of the Versailles Treaty. Krupp would not change its nature and tradition. "If Germany should ever be reborn, if it should shake off the chains of Versailles,

* Trial of the Major War Criminals, *op. cit. supra*, vol. I, p. 175.

the Krupp concern had to be prepared," said Gustav Krupp. For Krupp and Hitler alike, the Treaty was the immediate obstacle to the fulfillment of the other cherished objectives—reconstitution of "Greater Germany" and the reestablishment of German armed might. For all these purposes, Hitler and Krupp agreed "the formation of a strong central power in the Reich" was most desirable. Just in this vein both of them spoke to the assembled German industrialists on 20 February 1933, at the most critical moment of Hitler's climb to dictatorship; "only in a politically strong and independent state could economy and business develop," said Gustav.

But the solid working alliance which was formed between Krupp and the Nazi Party by, if not before, 1933, was based on more than an abstract agreement on political principles. Each was vitally necessary to the other; on matters of fundamental political policy, Hitler and Krupp fitted together like a mortise and tenon joint.

We have already brought out that Krupp's decision in 1920 to preserve the specialized armament capacity of the firm entailed considerable temporary sacrifice. This decision was made in the expectation that, one day, the bars would be let down and the halcyon times of Bismarck and Wilhelm II would return. After a very lean decade, and in a turbulent political situation, Hitler and the Nazi Party alone offered Krupp the fulfillment of these expectations.

Hitler needed Krupp just as badly. He came to power by violent and demagogic appeals to the most chauvinistic and militaristic elements in the German mentality. He could not afford the luxury of inaction and, indeed, was obliged to act speedily in order to maintain his prestige. Within 6 months, Germany withdrew from the International Disarmament Conference and the League of Nations; within 2 years, the disarmament clauses of the Versailles Treaty were denounced; within 3 years, the demilitarized zone of the Rhineland was reoccupied.

All these steps entailed risks, and to justify such risks Hitler desperately needed to muster all available military power with the greatest possible speed. And indeed, at the time, the rapidity of the resurgence of Germany's military strength was astonishing and almost miraculous. All of us remember our amazement in 1938 and 1939 that a nation which had been thought so completely disarmed only three or four years earlier had achieved such formidable and terrifying strength.

The evidence in this case goes far to explain the seeming mystery, the solution of which lies chiefly in the extensive and effective clandestine rearmament accomplished by Krupp before

Hitler came to power. For various reasons, this fact has been obscured ever since. Until 1937 or 1938, it would have been politically and diplomatically imprudent for Germany to disclose the secret armament history of the Weimar Republic, and after that time Hitler and the Nazis were probably quite reluctant that anyone should think that substantial steps to reestablish German armed might had already been taken long before the advent of Hitler. It may be remembered that Chancellor Joseph Wirth in his letter to Gustav Krupp, written in August 1940, stated that (*NIK–8575, Pros. Ex. 132*):[1]

> "* * * approximately 2 years ago, the Reich Government made it known, through the Ambassador in Paris, that any publication about previous preparations for the recovery of the national freedom would be discouraged."

Some of the documents showing the enormous importance of Krupp's pre-1933 armament work have already been mentioned. The annual report of the Krupp board of directors for the year 1937–1938 stated that (*NIK–1284, Pros. Ex. 125*),[2] "When in 1933, we were again called upon to manufacture war materials in large quantities, we were immediately ready to do so" and that, "workshops * * * were again put into operation and after a short preliminary stage, were working at capacity." We have also mentioned Krupp's secret memorandum transmitted to the German army in July 1940 (*NI–764, Pros. Ex. 467*),[3] which stated that Krupp's "* * * basic plan of reconversion to war production * * *" had "* * * made it possible at the beginning of the rearmament period to produce straight away heavy artillery, armor plate, tanks, and such like in large quantities." To the same effect is Gustav Krupp's article written in 1942 which stated (*D–94, Pros. Ex. 124*):[4]

> "After the assumption of power by Adolf Hitler, I had the satisfaction of being able to report to the Fuehrer that Krupp stood ready, after a short warming-up period, to begin the rearmament of the German people without any gaps of experience * * *.
>
> "Since that time, I have often been permitted to accompany the Fuehrer through the old and new workshops and to experience how the workers of Krupp cheered him in gratitude. In the years after 1933, we worked with an incredible intensity and when the war did break out, the speed and results were

[1] Document reproduced in section VI B 1.
[2] Ibid.
[3] Ibid.
[4] Ibid.

again increased. We are all proud of having thus contributed to the heretofore magnificent successes of our army."

In a more particular fashion, we have already learned that Germany had submarines in operation only 3 months after the denunciation of the Treaty of Versailles and had no less than 18 submarines in service in March 1936, at the critical time when the Rhineland was reoccupied; these facts the German Navy itself described as "astonishing". We have also learned, by Krupp's own memorandum, written in 1942, that "the basic principle of armament and turret design for tanks had already been worked out in 1926". But perhaps the most amazing revelation along this line is contained in the "concluding remarks" of the history written by Krupp's artillery designing department, to which reference has already been made. This most significant paragraph reads as follows (*NIK–9041, Pros. Ex. 146*):[1]

"The foregoing remarks showed us only weak attempts in the field of gun design for the first years after the World War which aimed to salvage from the collapse what could be salvaged. Beginning with the middle of the twenties, however, we gradually note the aspiration which becomes more and more pronounced to rebuild, and also to embark on fresh projects. It is true that the guns then developed can only be classed as forerunners; they made an appreciable contribution, however, towards clarifying opinions and requirements, thereby making it possible to meet them, and thus they have entirely served their purpose. They were followed very shortly afterwards by the weapons which were finally adopted. Of the guns which were being used in 1939–41, the most important ones were already fully developed in 1933; the mortar was almost completed, and the light field gun 18 also was ready for use. For the equipment which was tested in secrecy, the army ordnance office and the industry stood ready to take up mass production, upon order from the Fuehrer."

On 9 October 1939, just after the successful conclusion of the campaign against Poland, Hitler wrote:[2]

"The warlike equipment of the German people is at present larger in quantity and better in quality for a greater number of German divisions than in the year 1914. The weapons themselves, taking a substantial cross-section, are more modern than is the case of any other country in the world at this time. They have just proved their supreme war worthiness in their

[1] Parts of this document are reproduced in section VI B 1.

[2] Quoted in the judgment of the IMT, Trial of the Major War Criminals, *op. cit. supra*, vol. I, p. 183.

victorious campaign * * *. There is no evidence available to show that any country in the world disposes of a better total ammunition stock than the Reich * * *. The AA artillery is not equalled by any country in the world."

And 6 weeks later, he met with all the commanders in chief of the armed forces to discuss future plans. In support of his exhortations that an aggressive policy of attack should be pursued, Hitler summarized Germany's great advantages in armament over its competitors, over its enemies, and mentioned (*789–PS, Pros. Ex. 344*)—

"1. The number of active organizations in Germany is greatest.
2. Superiority of the Luftwaffe.
3. Antiaircraft beyond all competition.
4. Tank corps.
5. Large number of antitank guns, five times as many as 1914 machine guns.
6. German artillery has great superiority because of the 10.5 [cm.] gun.
7. French superiority in howitzers and mortars does not exist."

Most of the weapons mentioned by Hitler were manufactured by Krupp, or by others according to Krupp designs and specifications. Statements such as those quoted above make clear the enormous debt which Hitler owed to Krupp policy and Krupp techniques. In 1940, Gustav Krupp once had occasion to emphasize that he had promised "to prove to the Fuehrer from the very outset that workers, experience, construction, and production processes were available to carry out the rearmament quickly and successfully." These promises were well kept.

In fact, the partnership of Hitler and Krupp, and the smooth functioning of Krupp as an integral and important part of the Third Reich, continued through the war, and was finally broken only by Germany's military defeat. During the latter part of the war, Krupp's special and favored status was recognized by a special law which Hitler enacted for the future governance of the Krupp enterprises.

In 1942, Gustav and the defendant Alfried Krupp made overtures to Hitler and Martin Bormann for the issuance of a decree permitting "family enterprises" to be created by those who had sufficiently established themselves in the scheme of National Socialist economy. To this overture Hitler responded favorably and ordered the preparation of a special decree to create and

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perpetuate the Krupp family enterprise. This decree was enacted by Hitler on 12 November 1943. The preamble recites that (*1387–PS, Pros. Ex. 475*) :[1] "The enterprise of Friedrich Krupp, a family enterprise for 132 years, deserves highest recognition for its incomparable efforts to raise the military potential of Germany.

The "Lex Krupp" provided for special treatment as to matters of inheritance and taxation, and the regulation of the firm by its own internal statute. By this decree the Krupp firm became in truth a "state within a state" created by the Third Reich. Whoever became the owner of this firm was to bear the name "Krupp" before his own name. The internal statute provided that the leaders of the Krupp firm must be specially approved by Nazi Party and Reich officials. The defendant Alfried Krupp von Bohlen und Halbach assumed the sole ownership and control of the Krupp enterprise by virtue of the formal approval of Martin Bormann, Chief of the Party Chancellery, and of Dr. Lammers, Reich Minister and Chief of the Reich Chancellery.

Words of grateful appreciation were expressed by the parents of Alfried Krupp to Hitler, for the latter's efforts in establishing the Krupp dynasty in its now legal form. To the words of appreciation, they added the words of assurance to Hitler, (*D–135, Pros. Ex. 478*)[2] that—

> "We shall do everything in our power to equip our son, Alfried, the present owner of the family enterprise, for the task of securing and, if possible, increasing the production of the Krupp works, both in peace and war, in your spirit, and for the benefit of our people."

No other industrial concern in Nazi Germany was honored by such privileges as were thus granted to the Krupp family enterprise. By it, Hitler bestowed on the Krupp firm a unique and most favorable position in the commercial and industrial life of Nazi Germany.

We have seen that the Krupp firm favored the creation of a strong central German Government; assisted, both with its money and its prestige, in the establishment of Hitler's authority and the dictatorship of the Third Reich; provided the Third Reich with what it most needed to put its aggressive and warlike policies into effect; and played a vital part in the waging of the wars which inevitably followed. We have seen that these things were done not because the Krupp officials were "Nazis" but because they shared with the Nazis certain basic ideas and desires.

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[1] Document is reproduced in section VI B 1.

[2] Ibid.

We have also seen that, if Krupp was in tune with the policies of aggression of the Third Reich, it was equally in step with Nazi concepts of the methods by which wars should be waged. The utmost ruthlessness and disregard of international conventions came as naturally to Krupp as to the German war lords and the political leaders of the Third Reich. The mines and factories of Austria and Alsace and the Ukraine were seized with as little compunction as the deported workers from France, Poland, and Russia were enslaved and terrorized to keep the Krupp machines turning. All this was in full keeping with Nazi scorn for the rights of others and the dignity of man.

We said at the outset that the crimes charged in this case arose out of certain ideas and attitudes which antedated nazism, and have their own independent and pernicious vitality but which fused with Nazi ideas to produce the Third Reich. No one has expressed this better than Gustav Krupp von Bohlen himself. On 1 May 1940, Rudolf Hess and other prominent Nazis visited Essen to confer on the Krupp company the "Golden Banner" which distinguished the works as a "National Socialist model plant." Hess was received at the entrance to the hall by Dr. Gustav Krupp, and by the three members of the Vorstand, the defendants Alfried Krupp, Ewald Loeser, and the deceased Paul Goerens. As the Krupp report of this occasion tells us, Rudolf Hess delivered a "stirring address" which was "characterized by a most timely political note—settling final accounts with the Jewish-plutocratic-democratic world." Gustav Krupp acknowledged the award with the following words (*NIK–12630, Pros. Ex. 261*).*

> "I share with the entire personnel of the Krupp works a pride in this award. It is in honor of a social-political attitude which, while having its roots in a 128-year-old tradition, has developed organically so as to fit into the new times, into the National Socialist Germany."

These words accurately epitomize the defendants. Nothing need be added. The tradition of the Krupp firm, and the "social-political" attitude for which it stood, was exactly suited to the moral climate of the Third Reich. There was no crime such a state could commit—whether it was war, plunder, or slavery—in which these men would not participate. Long before the Nazis came to power, Krupp was a "National Socialist model plant."

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* Part of this document is reproduced in section VI B 1.

B. Opening Statement for the Defendant Alfried Krupp*

DR. WECKER (associate counsel for the defendant Krupp): Your Honors, I shall make the opening speech for Dr. Kranzbuehler, whom I represent, for Mr. Krupp von Bohlen. Before doing so, I should like to read an excerpt from a speech made by Cardinal Frings, the Archbishop of Cologne, during a papal celebration in Essen before many thousands of people, on 14 March of this year, and which I just saw now.

PRESIDING JUDGE ANDERSON: Excuse me, just a minute. This is not coming through. See what is the matter. Just a minute, please. It's all right. Pardon the interruption.

DR. WECKER: Your Honors, this speech by the Archbishop of Cologne, Cardinal Frings, is very interesting in connection with the things we are dealing with, and I therefore consider it important to precede my opening speech with this excerpt. The Cardinal said the following:

> "When I refer to Krupp and to the family of Krupp, then I mean those things which have made Essen as big as it is now. I believe I may say that this firm and this family always showed great social understanding and cared very much for the welfare of their workers and employees. I know that all the people in Essen were proud of being Krupp workers, employees, and officials. If there is anyone entitled to be an honorable citizen of the city of Essen, then it was surely the head of this house. I do not know how this right was lost and how much guilt there is in this firm in connection with the preparation for the aggressive war, and I do not want to interfere in this matter. However, nobody will think ill of me if I say I feel very deeply for the fate of this family who was once so well thought of."

Your Honors, when General Taylor delivered his opening statement before this Tribunal on 8 December 1947, he spoke as follows:

> "In opening a case of such historic import, there is a natural impulse to dramatize the occasion by ringing all the charges on the name 'Krupp,' which was described 2 years ago by Mr. Justice Jackson as * * * 'the focus, the symbol, and the beneficiary of the most sinister forces engaged in menacing the peace of Europe.' "

* Opening statement is recorded in mimeographed transcript, 22 March 1948, pp. 4714–4731. (The opening statements on behalf of all defendants were delivered on 22 and 23 March 1948, tr. pp. 4714–4848.)

So for me, on the occasion of opening the defense, there was a natural impulse too to dramatize the situation. There were reasons enough if 2 years after the father has been dropped from among those on trial, the son sits in the defendants' dock because of precisely the same charges. I shall, however, forbear emphasizing the human and moral side of these inherited accusations. General Taylor's statement will demonstrate a much more different circumstance which brings particularly to light the singular nature of these proceedings.

If the American prosecution staff under the leadership of Justice Jackson believed itself to be in the position in September 1945 to serve an indictment against Gustav Krupp von Bohlen und Halbach on the grounds of crimes against the peace, war crimes, and crimes against humanity, it must have had in its possession as early as that time all the essential documents needed to base such charges. From that time until now a huge staff of prosecutors and investigators has worked on this material, extending and broadening the charges on all sides and establishing bases for them. But it was determined by a decision of the International Military Tribunal that Mr. Gustav Krupp von Bohlen und Halbach could never be the defendant against such charges, and so the proceedings, since then, have been directed exclusively against his son, Alfried Krupp von Bohlen und Halbach, and those persons associated in the firm who at the desire of the prosecution staff should be placed in the dock.

I know of no regulated penal code which under such circumstances would have denied counsel to persons so charged. The Nuernberg prosecution staff which has repeatedly depicted itself in the press as being "so fair" acted according to different principles. Alfried Krupp von Bohlen und Halbach was in custody 2 years and 4 months before the indictment was served; during this time he petitioned repeatedly for counsel, and for 2 years and 4 months his applications were denied. While he—defenseless, condemned to inactivity, and destitute of all monetary means—was being dragged from one camp and prison to another, the prosecution staff was examining thousands of files and interrogating hundreds of witnesses to build up an unshakable case against him.

When the charges finally were made known to the defendants in August of last year and when the defendants were permitted, for the first time, to engage counsel, they and their defense attorneys were in somewhat the same position as a man who undertakes to raze a skyscraper with a pick axe. But the man with the pick axe at least knows what task he has to fulfill; the defendants did not know that, even after the indictment was served,

because it was not to be seen from the indictment itself which charges were to be brought against which defendants. Counsel for the defense had to object at the very beginning of the trial on the grounds that the indictment was totally without substantiation. Even during the presentation of their case, the prosecution was not in a position to remedy this lack. A written exposition of the charges, suggested by the Tribunal and promised by the prosecution, has as yet not been received. I leave open the question of the reasons for this failing.

The defense is forced, therefore, to refute charges which are totally ambiguous. This is particularly true for my client who publicly is being held responsible for things which occurred before his birth, before his entry into the firm, and before the acceptance of the chairmanship in the Vorstand of the Krupp firm.

It is not necessary for me to recall for the Tribunal the many further difficulties which have rendered the work of the defense more arduous and which we have brought to the attention of the Tribunal in repeated motions for adjournment. I should like only to mention in passing that we were granted access to considerably more than three thousand documents, previously unknown to us, only after the conclusion of the prosecution's case, that is, only 4 weeks before the beginning of our defense. Even today we are still lacking a great many documents. We know that many of them were in this building at one time because the prosecution files show that they were removed by Allied personnel. Apparently, however, they are no longer available since they are not contained in the list which is being prepared under the auspices of the prosecution. Among those files which are shown as available in the list, many are completely empty. Others bear the prosecution notation, "taken out." Therefore, while the prosecution had more than two years to appraise this great bulk of material, only a portion of it has remained for the defense. In my opinion no one can take it amiss if I believe that source material which could have been of valuable service to the defense was among the missing documents.

With regard to evidence I need not say anything more specific about the difficulties borne by the defense in causing German witnesses to testify truthfully in favor of the defendants. It throws a revealing light and is certainly no accident that a member of the prosecution staff, as he admitted here, was present at the denazification proceedings against one witness. The peculiar situation, moreover, regarding foreign witnesses in a war crimes trial against Germans requires no particular exposition; I simply

recall in this connection the trials of collaborationists in France and Belgium.

These difficulties which I have just described and which were present or came up during the course of the trial, are, in my view, the lesser evil when compared with the entire system employed in the preparation of the charges.

Such a system makes an empty formality of the principle of equality between prosecution and defense, a principle upon which all Anglo-Saxon procedure rests. And not only is the situation of the defense adversely affected by this character of the pretrial proceedings, but the judges, too, are denied the possibility of finding justice. Since in this proceeding the judges can evaluate as evidence for their judgment only the material which is submitted by both parties, they lack all the necessary facts and documents which the defense cannot produce and submit because of the limitation of time and facilities.

I request that the Tribunal take this situation into consideration in accepting and judging the evidence which the defense will submit or has submitted under steady pressure. Of necessity everything is done piecemeal, and we must rely upon the fact that the Tribunal will not charge the shortcomings of the defense to the defendants who were hindered in timely preparation, but rather to the system which itself is responsible for such hindrance.

In submitting our evidence we shall suffer from the same insecurity which plagues all Nuernberg proceedings. Until now no one has been able to tell us what actually is the legal nature of these tribunals staffed by judges who were appointed simultaneously or one after the other by the President of the United States of America and the Military Governor of the American Occupied Zone in Germany. I do not choose to touch upon this question despite its importance, within the sphere of my opening statement to any extent greater than the necessity required by such an opening.

There are two problems which are of direct practical importance to the defense in this connection. The one concerns the regulations according to which evidence is received or considered inadmissible. We have allowed ourselves during the submission of evidence by the prosecution to be led by the idea that this Tribunal is an American tribunal and is required to follow essentially the rules of evidence which are prescribed in American law for military tribunals of this nature. This cannot have escaped the notice of the Tribunal. Our numerous objections against the evidence submitted are based on this concept. In few cases did we have any success; in a great many cases, on the contrary, the Tribunal withheld its decision. The prosecution

submitted many documents for so-called "identification" which were rejected as evidence or which the prosecution itself doubted as being acceptable. Since we do not know what the Tribunal will decide in the cases in which decision has been withheld, and since we also do not know if a document accepted for "identification" will not actually be employed as valid evidence in reaching judgment, our evidence to the contrary must cover many pieces of evidence of the prosecution which, according to American law, without any doubt were inadmissible. It is of not much assistance that we in submitting our evidence can make use of evidentiary materials of that sort.

The second problem stemming from the legal nature of this Tribunal which is of immediate importance in accepting evidence for the defense is concerned with the problem of material law. The charges have been served because of offenses against international law *and* against Control Council Law No. 10. The American prosecution staff is obviously of the opinion that there is no difference between international law in general and the legal specifications of Control Council Law No. 10. In the opinion of the Legal Division of OMGUS, Berlin, which presented the charges with regard to the appeal against the judgment in the Milch Trial to the Supreme Court in Washington, it is stated:

> "Military Tribunal II is not required to apply the law of the United States in the trial of petitioner, nor even the law of nations as heretofore recognized by the courts in the United States. As a court of occupied Germany it is required to apply the laws of the quadripartite governing body for occupied Germany. The crimes specified in Control Council Law No. 10 have their basis in international conventions, and particularly in the charter annexed to the London Agreement of 8 August 1945, as interpreted and applied by the International Military Tribunal."

If this Tribunal considers itself an occupational court and considers itself bound by the conception which the Military Government has concerning Control Council Law No. 10, then the criminal charges against which we have to defend our clients have a different aspect than if they are judged in accordance with international law in general. As far as I can see, Nuernberg military tribunals in the past have avoided stating in their judgments their decision on the basis of Control Council Law No. 10. I submit, for example, the judgment of the Flick Case in which the Tribunal specifically refused to punish acts which were not considered criminal according to international law in general at the time of commission. I recall in this connection that this

Tribunal demonstrated through the mouth of its president no inclination to associate itself with an estimation of guilt as it is contained, for instance, in Control Council Law No. 10, Article II, paragraph 3*f*. The presiding judge expressly stated in the course of the argument that it is for the prosecution to prove the guilt of each individual defendant. The defense accepts this principle, which corresponds to the criminal law of all civilized nations, as a basis for the extent and purpose of its evidence as well. The purpose is therefore to arouse in the judges a reasonable doubt that the evidence submitted by the prosecution establishes the guilt of the individual defendants.

In order not to be misunderstood, I should like specifically to emphasize that the defense, in making this contention, is not renouncing its contention of complete innocence for the defendants. But faced with such a charge, the defense simply cannot see itself in a position to prove their innocence. The entire evidence of the prosecution is in no way direct but rather only circumstantial. Not one of these defendants started a war himself or took anything himself or maltreated anybody at all. The prosecution attempts, however, by means of a chain of hundreds of facts or assumptions to connect the individual defendants with such acts, acts which they themselves *did not* commit. Many of these hundreds of facts appear from the very beginning to be totally unimportant; at first glance a certain significance can be attached to others. It is impossible for the defense to consider all facts and assumptions which have been submitted, and therefore the defense also cannot prevent the possibility that one or another circumstance which leaves open the possibility of the guilt of a defendant remains unconsidered. This situation is due just as much to the extent of the circumstantial evidence gathered together by the prosecution as to the peculiar laws according to which judgment is to be rendered on crimes against the peace, war crimes, and crimes against humanity.

Since the question in this connection is to be considered in the light of the standards of international law, it appears suitable to go back to the actual principles of international law. It develops, as Justice Jackson said with justification in his opening statement before the International Military Tribunal, out of the acts of governments. A tribunal which has the mission to decide questions of international law, particularly those of great bearing, not for the defendants alone, must possess the desire and the readiness to consider the actions of governments and to weigh carefully the influence which these actions have upon the formation of international law. Even the trial before the International Military Tribunal indicated that this mission is particularly diffi-

cult and perhaps is not to be accomplished at all through the medium of a criminal proceeding. The actions of the German Government since 1933, perhaps since 1918, lie exposed every day in broad outline and in many evil details because of the trials developed here in Nuernberg. But this, unfortunately, does not comprehend the actions of *other* governments whose activities for the practice of international law are certainly of at least the same importance. The defense will submit as evidence on one point or another the governmental policy of other nations, as was done before the IMT and in other Nuernberg trials, in order to create the basis for the judgment of practices under international law. In the readiness of the Tribunal to consider these necessary principles of a just decision, we shall see the desire to render such a decision.

In a trial with a political background it may be that such evidence from the defense could be uncomfortable. It must, however, even then and in that very type of trial, be taken into the bargain. Unfortunately, during the submission of evidence by the prosecution when we put questions in points which could have had political significance, it was not always possible for us to convince the Tribunal of the necessity of such questions. I recall that in the examination of the witness, General Morgan, the question of the participation of the British Government in this trial was stricken from the record. A similar thing was true of the question directed to Colonel Warner when he was asked if he considered the war operations of the United States of America against Germany to be offensive in nature. In this case the presiding judge instead of the witness made the statement that it was well known that Germany had declared war against the United States.

I do not mention these incidents by way of criticism. At that time we were all in a stage of the proceedings at which the significance of the questions thus put was not entirely recognizable. Now the situation is different and at the opening of the defense case I feel it my duty to give voice with all earnestness to the hope and the expectation that the defense will find during the presentation of its evidence and arguments just as open an ear on the part of the Tribunal as the prosecution has found.

This open ear should be lent to the recognition of circumstances, the significance of which can come in view of the creation of international law through the practice of governments. It should be lent equally for a consideration of the political situation in Germany, for the foreign and domestic needs in the years after the First World War, and for the particular circumstances which have existed in Germany during the years since 1933. An espe-

cially acute demand is made upon the ability of the judge to place himself among events foreign to him in order then to pass judgment on them. The iron curtain with which the people of the earth choose to cut themselves off from one another since the end of the First World War, now here now there, was lowered in a considerable measure since 1933 between Germany and the United States of America. You, Your Honors, will unquestionably believe my assurance that the Germans could not find the full truth for themselves after that time regarding anything which happened outside their borders. You will also concede on the basis of your knowledge of the IMT judgment that the Germans also knew only incompletely what happened within their own borders. Many Americans, however, will not be ready even today to concede that people in the United States, as well, had no actual picture of what was going on in Germany after 1933. Much will be able to be understood only by him who experienced it himself: the extraordinary mixture of genuine love of one's country and unhealthy nationalism, of justified consciousness of one's self and racial superiority; the harmony between voluntary readiness for sacrifice and terroristic force, the intermingling of faith, self-deception, and betrayal. We have heard the opinion often enough that all that really did not actually exist, that these are things which the Nazis now have thought up to excuse themselves. He who approaches the problems of the war period and the time before the war with this point of view will never understand them properly. This Tribunal is meant to judge the individual guilt of men who lived at this time and in this country. It will not close its eyes to the necessity of concerning itself, unprejudiced and with the desire to understand, with the events which actually determine the thoughts and decisions of the defendants.

The prosecution claims for itself that it has proved the individual guilt of the defendants. It is difficult to believe that this opinion is seriously held if one examines the charges in detail. This doubt arises most acutely with regard to the charge of the defendants' having participated in a conspiracy for the preparation and waging of an aggressive war or of having prepared or waged such a war themselves. This charge is directed indiscriminately against the present owner of the firm, Mr. Alfried Krupp von Bohlen und Halbach—who became a member of the Vorstand of the firm only 1 year before the outbreak of the war—as well as against all his colleagues, down to Prokurists and the custodian of an artillery range who are now sitting in the dock. This very extension to all the defendants without any attempt at individual reasons indicates how little can be spoken here about a personal guilt. This impression is emphasized by the extent of

time which the prosecution has given to this part of its case. After the opening statement by General Taylor, there were presented the acts and events, beginning some 30 years ago, upon which the charges of crimes against the peace are based.[1] My client, Mr. Alfried Krupp von Bohlen und Halbach, was 10 years old at the time. No one will hold it against him if he considers as exaggerated the charge of the prosecution that he participated in a conspiracy at that time concerning crimes against the peace.

Ambiguity and exaggeration characterize the entire case of the prosecution with regard to count one of the indictment. After the IMT occupied itself for an entire year with establishing the responsibility of the National Socialist leaders for the cause and operation of the Second World War, the prosecution now is attempting to make a mere bagatelle of this responsibility which was established by the IMT and substantiated by numerous death sentences—asked by the American prosecution as well. Today we read from the same American prosecution that, "Nazism was, after all, only the temporary political manifestation * * *."[2]

Is the American prosecution in the IMT trial presumed to have deceived itself with regard to the significance of the National Socialist leaders? And if that is so, who will guarantee that the prosecution is not committing today in judging these defendants a relatively similar error?

The IMT judgment enjoys no favor at all among the prosecution when it contradicts their novel thesis. The prosecution has been slow, with justification in this courtroom, as inconsistent. The heavy demands made on evidence cannot make a secret of the fact that the charge of crimes against the peace is justified with regard to not one of these defendants in accordance with principles established by the IMT. The defense submitted these principles of the IMT to the Tribunal along with the motion to drop the charge of crimes against the peace. So long as the Tribunal has not come to a decision with regard to this motion, the defense of necessity must in presenting its case follow the same torturous paths which the prosecution has beaten. Since none of the defendants can consider himself affected in any way by the charge of crimes or conspiracy against the peace, the defense attorneys have arranged a common defense to this part of the charge. The portions which the individual attorneys have taken over within the sphere of this common defense indicate nothing with regard to any sort of connection between their client and that portion.

With regard to both the other counts of the indictment of "spoliation" and "slave labor," the defense attorneys have dis-

[1] Opening statement of the prosecution, section A, above.

[2] Ibid.

tributed among themselves certain themes, certain topics. These subjects will, moreover, not be presented by the defense as a separate issue as is done in presenting the case against count one of the indictment, but rather each defense counsel will handle them at the time he presents the case for his client. This distribution of subjects is meant to eliminate repetition and overlapping as much as possible, and in addition, in view of the bulk of the material, to result in a reasonably equitable distribution of work among all attorneys participating in this case. We ask the Tribunal, in this case as well, to draw no conclusions regarding the responsibility of any defendant on the basis of the fact that his attorney presents such a subject. This is a purely technical measure which has come up in other trials and which has proved to be of value.

Before I turn briefly to the counts of the indictment "spoliation" and "slave labor," I feel it necessary to take up the question of the unhappy connection which the prosecution has made between these charges and crimes against the peace. The IMT knowingly rejected the thesis of the prosecution at that time that there was such a thing as a conspiracy to commit war crimes and crimes against humanity. Correspondingly, Military Tribunals I, II and III on the occasion of the plenary session of all Nuernberg Military Tribunals on 9 July 1947 rejected the charge of a conspiracy to commit war crimes and crimes against humanity without further submission of evidence. The prosecution in this trial does not appear to be ready to take the consequences of this decision. War crimes and crimes against humanity are again being smuggled in through a back door as portions of the conspiracy to commit crimes against the peace. The reason is obvious. By means of the idea of conspiracy the prosecution would like to rid itself of the uncomfortable burden of bringing proof against each individual defendant of individual guilt for a particular act. I have as much understanding for this attempt as I have belief that one can create new international law on this basis. A legal standard, in particular a standard of criminal law, should create clearly delineated areas of facts in the case. The attempts of the IMT in this direction are unmistakable, and at least some of the subsequent military tribunals have joined in these attempts. What the prosecution is doing is the exact opposite. The distinction drawn between crimes against the peace and war crimes is, in a practical sense, once again to be erased and therewith in place of a clear legal spring a muddy pond is called into being which will be of interest only to those people who want to fish in it. With regard to this point as well, the defense counsel has submitted a motion to the Tribunal from which they expect

the early rejection of the connection between crimes against the peace and war crimes as contained in count four of the indictment.

A further attempt of the prosecution to escape the above-mentioned burden of proof seems to me to be contained in the assertion that the Krupp firm is a criminal organization so that membership in this firm would suffice for sentence. Would that not indicate that all employees and workers of the Krupp firm including foreigners would have to be considered members of a criminal organization? The IMT declared only a limited circle of organizations as criminal with clear intent. Is this circle to be somewhat extended?

Since precedent still is lacking in questions of responsibility of private businessmen for the preparation and waging of aggressive war, the defense with regard to the question of spoliation and foreign workers is in a different and even better position on the basis of the judgment in the Flick trial.[1] Since this judgment was made public only in December 1947, there was no possibility when the indictment in the Krupp trial was served to consider knowledge of this judgment as limitation of the charges raised. Since then, however, there certainly has been opportunity for such limitation. Since the prosecution has made no use of this situation the defense must once again go into all charges here as well, without regard to whether the standard of the Flick judgment can have any legal significance at all. In this matter, too, the defense will take pains, moreover, to indicate the limitation which the prosecution has permitted to be lacking. In their attempt to shorten proceedings, the defense is taking a risk.

An example of this is as follows: The prosecution cites as proof of the systematic spoliation of occupied territories a speech made by Goering to the administrative officials of the eastern territories on 6 August 1942, in which he stated:[2] "This everlasting concern about foreign people must cease now, once and for all."

As enticing as it may be, the defense will refrain from extending their proof by calling persons who were present when this speech was made and who could prove that this everlasting concern for foreign people did not cease even after this speech on 6 August 1942. The reason for refraining is that the Goering speech has to do with the delivery of *food* from Russia to Germany, and for this branch of the [German] economy, counsel for the defense are unable, even with the greatest effort, to recognize any responsibility on the part of the defendants in this case.

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[1] United States *vs.* Friedrich Flick, et al., Case 5, judgment, vol. VI.

[2] Trial of the Major War Criminals, *op. cit. supra,* vol. I, p. 239.

But things are not always this simple, and in many details we shall have to prove to the Tribunal that the prosecution has submitted a one-sided and therefore incorrect depiction of actual events. The prosecution has admitted, however, that in instances of "spoliation" one acted as one would if one were actually paying.[1] We shall prove that the Krupp firm in all cases wherein it received something, not only acted as it would if it were paying, but also in reality *did* pay. When on the other hand, the firm was commissioned by the Reich to take over the business operations, then it had nothing to pay because it also did not receive anything. To what extent business operations of this nature with which the firm was frequently burdened can be considered as participation in spoliation is a legal question which will be considered at a later stage of the proceedings.

An entirely different light than the one envisaged by the prosecution is thrown on the participation of an industrialist in the so-called "slave labor program" by the verdict in the Flick Case. Counsel for the other defendants will refer to the particulars regarding this count. For Mr. Alfried Krupp von Bohlen und Halbach a responsibility under this count can only result from his position as member of the Vorstand and as later owner of the firm, and from his activities in the great industrial organizations, the Reich Association Iron (RVE) and the Reich Association Coal (RVK). Therefore, the taking of evidence in his case will cover these points. Just as the prosecution, in arguing their accusation of preparation for war, refers to the old tradition of the firm and the house of Krupp, the defense will also make use of this tradition and make mention of the social achievements for which this family has received uncontested credit until now. We feel particularly called upon to do this as a representative of the prosecution considered it proper to attack the social attitude and motives of the Krupp firm, in connection with Krupp workers' settlements, in the press.

The prosecution caps its theory that Krupp was the great advocate of aggressive war with a reference to the special law by which in the autumn of 1943 the A.G. Friedrich Krupp was converted into a family enterprise of the same name. The defense will submit to the Tribunal the origin of this "Lex Krupp" (*1387–PS, Pros. Ex. 475*)[2] and its 30-years' history, and so will create a basis for the recognition of the fact that this law does not represent the slightest bit of evidence for this theory of prosecution, and that it is of no importance for these proceedings.

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[1] Indictment, section I, paragraph 35, above.

[2] Document reproduced below in section VI B 1.

When one looks over the entire course of the prosecution and attempts to envisage the course of the defense, this question appears to me to be the nucleus of the matter—Is an industrial enterprise permitted to produce war material before a war, and is it permitted to continue this production also during the war, that is to say, within the scope of those regulations and laws which have been passed by *its government?* The prosecution seems to have been under the same impression, else the prosecutor would not have hastened to state that the armament industry is an honorable one and that the accusations made against the firm Krupp do not refer to the armament factories in other countries. In this connection he obviously overlooked the sources from which his colleagues obtained their information. At the outset of these proceedings the prosecution submitted a written statement to the Tribunal which was evidently intended to be endowed with special importance by its title "Basic Information." The facts in the "Basic Information" pertaining to the Krupp firm have been largely drawn from Bernhard Menne's book *Blood and Steel—The Rise of the House of Krupp.* If the prosecution accepts the author as an expert in Krupp matters, it will also have to acknowledge this expert in matters pertaining to the armament factories of other countries.

It is of interest, therefore, to hear what Mr. Menne has to say on this topic in the introduction to his book:[1]

> "It is obvious that the association of politics and business, steel and the destiny of nations, revealed in these pages is not to be considered peculiar to the history or the present condition of Germany. Wherever the name 'Krupp' appears, let the Frenchman substitute 'Schneider'; the Englishman 'Vickers'; and any other country, its corresponding firm."

C. Opening Statement for the Defendant Loeser[2]

DR. BEHLING: Mr. President, Your Honors, I intend to divide my plea methodically into two categories. On one side are the matters which I have to deal with administratively within the framework of the joint defense irrespective of the person of Dr. Ewald Loeser. The second part of my plea will deal specifically with the personality of Dr. Loeser and with the charges brought against him.

To the first group belong a number of questions whose irrelevancy to the outcome of the trial is obvious. Yet I shall have to

[1] Menne, Bernhard, "Blood and Steel, The Rise of the House of Krupp" (Lee-Furman, Inc., New York, 1938).

[2] Opening statement is recorded in mimeographed transcript, 22 March 1948, pp. 4732–4742.

include them in the sphere of my observations since the charges have been brought and the prosecution could not make up its mind, so far, to drop them as suggested by me. I refer, in the first place, to the concept of the so-called Military Economy Leader (Wehrwirtschaftsfuehrer) which is entirely misconstrued by the prosecution. I shall show that this is a meaningless title, possessing no practical value, either economically or politically. In my opinion this question was most correctly evaluated by Military Tribunal V in the Flick case, this allegedly "serious charge" being passed by without comment.

Much the same applies to another point which will deal with the so-called "Small Circle." Analogous to the other economic trials, the prosecution has veiled this phenomenon in magical semidarkness and thus surrounded it with a semblance of importance which would have been worthy of a better cause. The Tribunal will be interested to learn that the Flick trial bypassed this point in silence also and denied any responsibility within the purport of the charges.

The discussion concerning the so-called "Small Circle" will be in conjunction with another general topic, that will deal with the Economic Group Iron-Producing Industry and the District Group Northwest of this economic group. Here again we can cite the findings of the Flick verdict. Just as little, as the membership of the Small Circle, did the Military Tribunal deduce criminal responsibility from the work of the men accused in that case in the economic group and the suborganizations referred to, or see reason why even one of the defendants should be sentenced. I shall limit myself, therefore, on the whole to the material already submitted in the Flick case and, moreover, I shall refute the case for the prosecution by the examination of a witness.

Besides these points which, in my opinion, have no bearing on the outcome of the trial, there are some questions which necessitate more extensive argumentation. In the foreground of my plea regarding this will be the financial development of the firm of Krupp up to 1943. The period from 1943 to 1945 will be dealt with by my colleague, Dr. Schilf, as a part of his plea. I shall prove that the firm of Krupp did not profit excessively or unduly by the Hitler regime. In this way I shall refute beyond any reasonable doubt, substantiated by sober figures and graphic illustrations, the allegation of the prosecution that the firm of Krupp was to be "rewarded" for maintaining its armament potential. In regard to this matter I shall call an expert witness and besides, on hand of further illustrations, I shall provide the Tribunal with the possibility of comparison with the financial development of other firms at home and abroad. It will be

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inevitable, however, in elaborating these interrelations, to bring to the notice of the Tribunal some of the principles of German financial and tax law.

In the course of these financial dissertations I shall deal with the problems related to the financing of German rearmament. It has always been the practice to revive a prostrate national economy by financial measures. This can be done from the outside with foreign loans or by injecting financial help in the form of an emergency program. But as long as the state is able to help itself, it will prefer to do so. In that case it created its own methods of finance. I shall prove that the so-called "MEFO drafts" fell into this category. They are, no doubt, not a desirable kind of finance, but nothing criminal either. A witness whom I shall call will demonstrate that the so-called "unemployed" bills of exchange can be regarded as the predecessors of these MEFO bills. I shall also bring to the official notice of the Tribunal the documents from the IMT, where this subject has already been fully ventilated and led to the acquittal of Reich Bank president, Dr. Schacht. If, however, Dr. Schacht, as the originator of these methods, has been acquitted by IMT it will hardly be possible to convict the industrialists charged here for accepting these MEFO drafts.

Following the plea of my colleague, Dr. Verwerk, I shall bring supplementary arguments concerning the Germania shipyard. By the submission of affidavits, documents, and a graphic illustration I shall prove that German naval armament, insofar as it was executed by the Germania yard, did by no means serve the preparation for an aggressive war in view of its small scale. Furthermore it will be shown that neither the Germania yard nor the firm of Krupp were able to determine the extent of the production. Despite strong protests the Germania yard had to build what the High Command of the Navy demanded. Neither the Germania Shipyard nor Krupp, Essen, had any influence on this. The capacity of the yard was simply requisitioned by the navy and in the structure of a totalitarian state no possibility existed of evading compulsion. Relative to this I shall briefly touch on German legislation and prove that by means of the so-called Reich labor service law alone an individual as well as firms could be compelled to perform any service deemed necessary by the military authorities.

My colleague, Dr. Schilf, will give the Tribunal an idea of the foreign organization of the firm of Krupp. In this connection I shall deal with the question of exports. In Hitler Germany firms were not free to export as they saw fit either. The State, without restriction, directed the export trade. The merchant was no

longer in a position to import or export what he liked, but had to follow instructions from the government offices, in the first place of the Reich Ministry of Economics and of the so-called inspection offices. The firms had to sell whatever the State direction of economic affairs desired. Nor were the firms at liberty to choose the export countries. Strict regulations favored the foreign trade with certain countries, while at the same they restricted it with other countries. All these measures were ordered by the government. A firm which resisted this, was economically handicapped and under certain circumstances its owner was punished most severely.

Independently of this enforced situation I shall prove that the export and import of the firm of Krupp was entirely within the limits of that of the other German firms. To a notable degree it actually preferred countries not allied to Hitler Germany. By comparative statements with regard to other countries I shall prove beyond this that the figures of German foreign trade corresponded to those of other countries. In any case it will transpire that the allegation of the prosecution, according to which the firm of Krupp had prepared an aggressive war by means of foreign trade, is erroneous. So far the prosecution has not brought any proof for this allegation of theirs. The witness to be called by me will more clearly define these relations to the Court.

In connection with the general subjects I now have to deal with the purchase of the Berndorf Works in Austria. The prosecution bases on this business transaction the accusation of plunder of foreign property and infers from this that the firm of Krupp had made a further contribution to the preparation of an aggressive war by purchasing the Berndorfer Metallwarenfabrik. So far I have been unable to ascertain what legal arguments prompted the prosecution to go so far. At any rate I can see in this neither a war crime in the sense of Control Council Law No. 10, nor a violation of the Hague Convention on Land Warfare. The basic premise for the accusation brought by the prosecution would be, as I see it, that at the time of the purchase the Republic of Austria was a subject of the League of Nations, and was in a state of war with Germany. If, however, as in this case, this premise is nonexistent the accusation is without any foundation, because the acquisition of Berndorf can in that case no longer constitute an offense against international law. At any rate I shall prove beyond any reasonable doubt by a witness that the defendants during the purchase negotiations regarding Berndorf assumed and were entitled to assume with impunity that Austria was no state or part of a state at war with Germany. According to the penal code of all civilized nations, every error regarding

primary questions of public and private law excludes the punishability of an act. Moreover, I shall prove that the purchase of Berndorf by the firm of Krupp was nothing but a transaction brought about by family reasons, which was carried through lawfully and caused no damage. Concerning the more detailed circumstances and, more particularly, to refute the prosecution witness Glatz, the witness named by me will make further statements.

Finally, relative to the defense as a whole I have to deal with a few events which occurred during the war in France. It concerns the dismantling of the sheet metal bending machine of the firm of Alsthom in Belfort, the use of the Austin Works in Liancourt, and the formation of the Krupp Societe Anonyme, Paris. Also for this I shall call some witnesses who will prove clearly that neither the firm of Krupp nor one of these defendants present acted contrary to penal law. Especially it will be shown that the accusation of plunder brought by the prosecution is unjustified.

In the second part of my opening statement of evidence I shall deal with the specific responsibility of my client, Dr. Ewald Loeser.

It is now almost 4 years ago since friends, for the first time, requested me to defend Dr. Loeser. At that time Dr. Loeser stood before the People's Court as a conspirator against the Hitler regime, being accused of high treason and undermining of the armed forces morale. A death sentence seemed certain for him. This I cannot only prove from my own experience as defense counsel, but shall prove it by presenting the prosecution statement and an affidavit of the former Oberreichsanwalt (Reich chief prosecutor). Today Dr. Loeser has to defend himself against the opposite accusation, namely against alleged conspiracy in cooperation with the Hitler regime. From these observations alone it becomes evident that the allegation of the prosecution seems to be decidedly paradoxical. If one accepts the statements of the prosecution, it is clear that Dr. Loeser must have been a member of two opposing conspiracies. In that case he would be a conspirator against himself. The best refutation of this thesis is the life story of my client.

Dr. Loeser experienced the accession to power by Hitler under rather dramatic circumstances as mayor and treasurer of one of the best known large German cities, to wit, the town of Leipzig. As such he was the closest and most confidential collaborator of the then chief mayor (Oberbuergermeister) Dr. Goerdeler, who as head of the civilian section of the resistance movement was sentenced to death and executed in connection with the attempt on Hitler's life of 20 July 1944 by the same People's Court, before

which Dr. Loeser had to defend himself. In spite of the dramatic start at the time when Hitler usurped the power, Dr. Loeser at first remained in office. Like all other responsible democratic circles, he likewise attempted to maintain the principles of orderly administration in the face of the obstacles raised by the Party offices. Soon, however, he was forced to acknowledge that he was confronted with an impossible task. From these realizations he drew the consequences as early as in 1934, relinquished his office and turned to a position of private economy.

In 1935 to 1937 we find Dr. Loeser as a member of the Vorstand of the Berliner Hotelbetriebs-Aktiengesellschaft. His colleague in the Vorstand at the time and the chairman of the Aufsichstrat of the company were Jews. During this period his smooth co-operation with his Jewish colleagues and his constant contacts with the leading representatives of the gradually rising resistance movement are noteworthy. This I shall prove by documentary evidence.

In 1936 Buschfeld, a member of the Fried. Krupp A.G. Direktorium for many years, died in Essen. Mr. Gustav Krupp von Bohlen und Halbach had originally planned to fill this post with Dr. Goerdeler, who a short time ago had been forced, for political reasons, to give up his post as Oberbuergermeister of Leipzig. Dr. Goerdeler, too, was willing to join the directorate of the Fried. Krupp A.G., all the more so as he promised himself a more potent influence on the elimination of the Hitler regime. The negotiations between Mr. Gustav Krupp von Bohlen and Dr. Goerdeler, however, came to nothing because Hitler had vetoed Gordeler's joining the Krupp Direktorium. Thereupon Dr. Goerdeler proposed to Mr. Gustav von Bohlen his former closest collaborator from Leipzig and his coconspirator in the fight against Hitler, namely Dr. Loeser, for the vacant post in the Direktorium. He thereby wanted to ensure that this important position did not go to someone politically neutral, not to mention to any henchman of Hitler's.

When Dr. Loeser in autumn 1937 joined the firm of Krupp, he received the special order from Goerdeler to be his confidential man in heavy industry. Goerdeler at that time had gone to the United States and to England in order to give warnings of Nazi intentions and to find out whether in those countries any support for anti-Hitler activity within Germany could be found. Goerdeler at the time was the heart of the German opposition to Hitler which then developed into the German resistance. He was the "motor" or "agitator." To begin with he tried in a large measure to spread over industry and the bourgeoisie of the whole country a net of confidential agents and to place everywhere liaison men

who were not only to recruit followers of the resistance movement and to undermine the regime, but who also had to prepare for the event of a victory of the resistance the possibility to take over leading positions in the new state and economy. What could be more obvious to him than to select a man whom he had come to value and to know as reliable with all his knowledge and ability as his deputy in Leipzig and who could free himself for this work to join one of the most important industrial enterprises which appeared to be safe from arbitrary Gestapo interference, in order to have in him a true pillar of the movement? In this respect I shall offer proof by the presentation of documents and by calling of a witness. If in addition financial reasons are claimed to have played their part for Dr. Loeser, this may be true. They were, however, not decisive. On the strength of the evidence to be presented by me the High Tribunal will come to the conclusion that Dr. Loeser had been picked out from the very beginning by Dr. Goerdeler as an exponent of the resistance movement. This duty assumed ever greater importance after Dr. Goerdeler started to really organize the resistance movement, i. e., the conspiracy *against* Hitler. This happened in 1938 subsequent to the abovementioned journey of Dr. Goerdeler to America. At that time a circle was formed which one may properly describe as a conspiratorial center of the resistance movement. In this circle Dr. Loeser played an outstanding part.

The outbreak of war and the constantly growing influence of the Party and the State following its development into "total war" on industry, as well as the constantly increasing pressure of the governmental and Party offices on industrial enterprises, caused Dr. Loeser to have qualms of conscience in an ever-increasing degree. If he did not want to render himself liable to persecution by the Nazi authorities as saboteur, he was forced to comply with the wishes of the Government under the pressure of draconical laws. If he objected to this, he would have had to take the consequences and to give up his position. Thereby, however, the resistance movement would lose this important observation post. In order to avoid even worse he put on the brake wherever he could. That in doing so he confined himself within the firm of Krupp to the limits of his department and supported himself on financial considerations rather than on political reflections is obvious. The constellation in Germany at the time demanded that he keep in the background as far as possible. I shall give the Court a drastic example demonstrating the necessity for such reserve out of my own practice as defense counsel before the People's Court, namely the case of the mining director, Ricken, who for a so-called defeatist remark in the Vorstand of a large

Essen enterprise was sentenced to death by the People's Court and executed. In 1943, Dr. Loeser left the firm of Krupp.

In attempting to prove my case I am confronted by not inconsiderable difficulties, because to a large extent I have to establish internal facts and events. The classical witnesses of this period from the civilian sector of the resistance movement, such as Dr. Goerdeler or the former Prussian Minister of Finance, Popitz, or the former mayor of Berlin, Dr. Elsass, the former attache in Rome, von Hassell, and the trade union leaders Leuschner and Habermann—to name but a few of the more important men—are no longer alive. They in common with many others connected with the attempt on Hitler on 20 July 1944, became victims of the Gestapo and the People's Court. Nevertheless I am confident that I will be able to give the Tribunal a complete picture of the political line pursued by Dr. Loeser. This will show how Dr. Loeser during the period prior to, during, and after his activities with Krupp was an outstanding member of the resistance movement. Therefore, he had been envisaged since 1938 as a member of the Reich government which was to be formed after the removal of Hitler and his system in order to set up once again a state founded on law in Germany.

I do not believe that the prosecution can seriously argue that this man is supposed to have utilized precisely the years 1938 to 1942–1943 for the preparation of aggressive wars or to commit war crimes or crimes against humanity.

This consideration forces the question to whether Dr. Loeser should have been arraigned before the present military tribunal in the first place. Article I of the Allied Control Council Law No. 10 points out that the Moscow Declaration of 30 October 1943 "concerning the responsibility of Hitler's adherents for atrocities committed" and the London Treaty of 8 August 1945 are integral parts of the Allied Control Council Law No. 10.

As transpires from the title of the Moscow Declaration, the latter is directed exclusively against Hitler's supporters.

Supplementary thereto the London agreement says "that those German officers and men as well as members of the National Socialist German Labor Party were responsible for brutalities and crimes or gave their consent to same should be returned * * * in order to be tried." Since the Moscow Declaration as well as the London Treaty are inseparable from the Control Council Law No. 10, they have to be applied to the limitation of the group of persons liable to prosecution under Control Council Law No. 10. Dr. Loeser never was a supporter of Hitler but on the contrary one of his most pronounced opponents. The injuries to his health inflicted in the prisons of the Third Reich are eloquent proof of

this. Hence, Dr. Loeser does not belong to the group of persons enumerated in the Moscow Declaration and in the London Treaty as well as in Allied Control Council Law No. 10.

D. Opening Statement for the Defendant Houdremont*

DR. PESCHKE: May it please the Tribunal. The prosecution made the general events which were in part the natural historical development of the past decades in Germany the basis of its charges and burdens individuals with the problematics of today's evolution of mankind. This obliges me to deal not only with the defense of my client but also with some subject matters, which if at all are only connected with any one of the defendants insofar as they were people living in central Europe during the past decades.

The indictment and also the opening statement of the prosecution characterizes the Four Year Plan which was promulgated in 1936, as the criminal instrument by virtue of which Germany was to be prepared for a war of aggression within 4 years. Even the conception of the Four Year [Plan] would have had to be considered a crime *per se* if collaboration and planning, which incidentally the evidence submitted by the prosecution up to now has not proved for any one of the defendants, or if their participation in every partial implementation, should establish a crime. The world historical and the economic events of our time connected with it are apt to furnish the answer to the question raised. Four year or five year plans were nothing new even in 1936. In neighboring Russia, a country abounding in raw materials, one five year plan followed the other.

It has not yet become known that the Russian five year plans have been designated as criminal, although they are said to be continued with ruthless commitment of indigenous and foreign manpower. There is reason to believe that concensus of opinion takes it for granted that no distinction can be made between ordinary industrial and armament developments. Every kind of strengthening of economy includes in itself a stronger potential for the armament industry without making the latter a specific target. Should in the future every scientist, political economist, or technician be afraid to participate in the economic recovery of a country or a continent, because a policy on which he is unable to exercise any influence may lead to war in which naturally the general economy would play an important role?

* Opening statement is recorded in mimeographed transcript, 22 March 1948, pp. 4742–4753.

When Professor Dr. Goerens, whom the prosecution characterized as a "coconspirator", in his capacity as the chairman of the "Verein deutscher Eisenhuettenleute" (Association of German Foundrymen) spoke on 17 December 1936 about the economy plan ordered by the government, he said: "The first Four Year Plan is behind us." He referred thereby to the crisis years 1931-1932 which initiated the Four Year Plan program. With these words he voiced the prevailing opinion. At that time an impoverished country for which even the Bruening government was unable to secure aid from abroad was obliged to try that way out.

Today we are in the fortunate position of viewing this necessity more clearly from the given facts. The development of the world economic situation proved clearly that four and five year plans became a necessity far beyond the scope of Germany and without any connection with warlike intentions. The British Labor Government carried out universal government control. America calls on Europe to participate in the Marshall Plan, and this plan, apart from its economic design, includes a political anti-Communist program.

America, rich in oil, utilizes those processes for the extraction of gasoline from coal, which 12 years ago the German Four Year Plan developed on a large scale. Is it therefore unjustified to ask whether the German economists, well aware of the desperate situation in central Europe, did not anticipate this development correctly as early as 1936? The statement of Professor Goerens confirms this. An essay of my client Houdremont concerning purely technical-scientific problems of the iron industry of the year 1938—the lectures were held in 1937-1938 at international meetings—shows at least the worldwide conception concerning the events which took place at that time in the field of the iron industry in Germany. That conception is more than the personal opinion of my client, because it was expressed in almost all publications about the Four Year Plan. If the prosecution now drags in isolated temperamental outbursts, which Goering made behind closed doors, none of which were known to the defendants, then those statements are contradicted by others even contained in the same speech, which had quite a different meaning. The preface with which Goering, in 1937, inaugurated the new monthly magazine "The Four Year Plan" refutes explicitly any thought of warlike preparations. Enterprises of the Four Year Plan were planned for many years ahead and are incompatible with short-termed war intentions; rearmament and Four Year Plan are often apt to be at cross purposes. I need not waste any time which is so essential for other stages of the trial and will pre-

sent my views briefly. Apart from diverse documents I will call only one witness who by virtue of his leading position was acquainted with all details of the Four Year Plan, and who is able to give information about its basic purpose.

This expert in the field of steel engineering problems, whom I shall yet mention, will testify in a similar manner as has been done in my client's publication that, apart from the general economic considerations of the Four Year Plan, the results achieved in the iron industry under the Four Year Plan really constituted a definite warning against war.

The second point which I must treat is concerned with the claim of the prosecution that the so-called economic mobilization represents a specific preparation for aggressive warfare. It is a generally recognized fact that every state which supports an army must as a consequence of its armed forces make preparations for using it in case of emergency and take the necessary economic measures in this case, if the government and the armed forces are not to expose themselves to the charge of gross neglect. There was an interesting hearing of a witness in the prosecution's case-in-chief by which it was established that the so-called mobilization planning was begun a long time before the National Socialist government, that a German officer was assigned to the Army of the United States of America in order to study their economic mobilization plans and that the ideas brought back from there were only partly realized by the outbreak of the war in 1939. Again, the prosecution documents show no connection of any sort of any one of the defendants with the mobilization planning of the iron industry. On the contrary, it may be clearly seen from the documents that the participants in that type of discussions—none of the defendants belong to this circle—were sworn to the strictest secrecy. Furthermore the numerical quotas of the mobilization planning of the iron industry amounted to about two-thirds of normal production. For every intelligent person, this was a further portent of war, like the Four Year Plan.

Finally, in the indictment and in the opening statement, it was stated several times that, in particular, research at Krupp was based on the sinister aggressive plans of the National Socialist system. It was even intimated that the employment of Mr. Houdremont and Mr. Korschan in 1926–1927, at the time when the Inter-Allied Disarmament Commission dissolved, took place with regard to laying a metallurgical technical foundation for rearmament and for preparation for aggressive warfare. One cannot help wondering—if one desires to follow the ideas of the prosecution in attributing a special skill in concealment to the Krupp firm—that it entrusted its preparation for aggressive war-

fare in the metallurgical field to two foreigners in order to cloak their dark plans, having already camouflaged these plans as much as possible by employing the Jewish Professor Strauss and the former foreigner, Professor Goerens. This theory of disguise is refuted by the facts. The Krupp factory was founded for the purpose of research and development of steel technology. The reputation of Krupp crucible steel existed before one Krupp cannon was made. Krupp steel technology arose not as a result of production of cannons, but the quality of the steel developed in the Krupp plants led among other things to the advantageous substitution of bronze by steel in cannons and thus to the application of Krupp steel products for military purposes. Krupp was, as the name of the Essen factory clearly intimates, first and foremost a steel plant, and every qualified steel plant must keep up its steel development in fields of technology, if it is to survive the struggle for existence.

The part played by armament engineering in steel development has always been very small as compared with the incentives which this branch of industry received in the field of tool steel, machine construction, electrical engineering, transportation industry, etc. As an indication, I should like to mention to the Tribunal that of more than one thousand different compositions of steel which have been produced in the last decade by the Essen Cast Steel Works, less than one hundred, that is approximately 7 percent, were steels for armament purposes, and even that quantity of steel which was used for armament engineering during the war at no time exceeded 20 percent of the total amount of steel produced in Essen.

Alfred Krupp had already discovered that scientific metallurgy had to form the basis of his plant, if it was to be successful in its struggle for existence. As a pioneer with acumen in engineering, he had already made his plant a center of fundamental metallurgic research during the last quarter of the last century. According to his own directives, this research place was to be independent to a considerable extent and was to make efforts along lines of general scientific knowledge. On the basis of this directive, research has always maintained its place in the Krupp plants independent of manufacture. Gorleiss, Salomon, Striebeck, Strauss, Goerens, and last but not least, Houdremont with their worldwide reputations stand for the work achieved for the benefit of mankind in the field of scientific metallurgy. We will take an opportunity of submitting to the court some of the published works of my client, among others, the book, "Manual on the Science of Special Steel" which was published in 1935 and the second edition of which was printed in 1943 during the war, thus being accessible

to all the world. We will furthermore submit the expert opinion of a well known specialist which will give us an insight into the internal research work carried out under the direction of Professor Houdremont. The Tribunal will be able to see from the publications which are going to be submitted and which are essential contributions to the general metallurgical knowledge of the world, that this is the life work of a man who served pure science and mankind. These works will thus speak for themselves. I am convinced that even the prosecution and particularly their metallurgical experts will agree with my statement. Or is it their intention to show Professor Houdremont as the Dorian Gray of metallurgy, who tried to hide the criminal nightlife of a warmongering metallurgist behind the front of a great life work, which is accessible to all?

In making this statement I deviate from the general topic and discuss my client. It will require particular attention to trace his life and his responsibility in the organization during the various phases of his activity. He rose gradually from the position of an assistant executive to the technical manager in 1926, to the position of a technical manager in the concern which he held in the end partly due to the circumstances existing at the end of the war. Up to 1932, he was not concerned in his field of activity with questions regarding steel for armament purposes, including tool steels, automobile, airplane, and construction steels, noncorrosive and heatproof steels, and steels with special physical properties. As the director of the management of the steel center after 1932 and of the research institutes after 1936, he was not concerned with questions of planning in the field of production proper.

One can hardly see how he could have participated in the conspiracy for the preparation of an aggressive war. Up to 1935 he was a foreigner. Only special circumstances, that is, a denunciation by his colleague Dr. Fry for alleged treason, caused his naturalization in 1935.

According to the indictment Professor Houdremont is said to have closely cooperated with the procurement offices of the Wehrmacht, to have been advisor to the Four Year Plan and at the founding of the Hermann Goering Works, as well as to have participated in the central planning during the war. We have looked in vain for pertinent evidence in the prosecution's case-in-chief. I shall introduce evidence that Professor Houdremont exercised the functions of an advisor neither in the Four Year Plan nor in the Hermann Goering Works, and that he was called to the meetings of the Central Planning Office only twice in order briefly to give information concerning problems of synthetic

materials. His activity as Plenipotentiary for Conversion in the exchange of metals during 1942–1943 can be elucidated by testimony of one of his colleagues.

Contrary to a charge by the prosecution, he never held high government office. He never played an important role in industry apart from the fact that at home and abroad he was known as a great scientist.

On account of his neutral position in the management of the central steel office and the research division, and ability, Professor Houdremont after 1939 was entrusted with the task of mediating occasionally between the various factions in the field of raw materials and power management. Prior to April 1943, when he took over the management of the Huettenwerke he was not connected with production nor was he actually in charge of any workers. At that time, and this is true to an increasing degree for the period June–July 1944 when in addition he took over the tool plants, and for September 1944 when he became plant leader, all questions concerning the procurement of labor from a variety of sources were answered by basic government decisions. No individual could change the course of events, just as little as he could have made the Mississippi disappear into its source just before the estuary. As will be further shown Professor Houdremont was sick from December 1943 until June 1944 and during this decisive period when with the approaching end of the war conditions became chaotic he was 500 kilometers away from his office and confined to his sickbed. It will be the task of my colleagues to present details concerning the situation of the labor allocation and the chaotic conditions in general. I shall confine myself to introducing evidence for those facts which characterize the basic attitude of my client. It was always known that he insisted on decent and humane treatment. In addition, his closest collaborators can testify that reports on maltreatment of workers were never submitted or related to him, still less that he approved of or tolerated them. This appears credible from the very fact that they had to pass through the various channels of worker, section-leader, foreman, chief foreman, assistant plant leader, group leader, plant director, director of the Friedrich Krupp, and member of the Vorstand in technical questions. Although as an internationally renowned scientist he was accustomed to sit together with his professional colleagues from all countries in peaceful collaboration, he avoided on purpose visiting a single factory in any of the countries occupied by Germany despite his technical interest and his linguistic knowledge, and still less did he participate in any so-called spoliation. I have to stress this explicitly since I have taken it upon myself to deal within the

entire defense with those cases which the prosecution has advanced under the viewpoint of the so-called spoliation of Holland, that is, the Lager-Aktion (and the Ruhrhilfe-Aktion) including the Rademaker and De Vries Robbè cases. These abuses, as results from evidence previously introduced, were incidents for which government authorities will have to be taken to account.

May it please the Court. Behind the documents and other evidence there stands in the final analysis the personality of every individual defendant. It is necessary that the judges gain a clear picture of this personality if they want to evaluate his action correctly. I considered it my task to gather not unnecessarily many, but on the other hand essential, evaluations concerning the person of my client. In this effort I have had the support to an unexpected degree of many persons at home and abroad, from highly placed personalities down to plain workers.

A substantial part of these statements which I have received reflects the recognition which Professor Houdremont has come to enjoy in all countries as one of the most outstanding metallurgical experts of the world. Special attention is to be called also to the testimonies which were proffered me dealing with the further intellectual activity and the character of my client. He was the center of a cultural circle of the city of Essen. His study of music, literature, and philosophy shows him as a man who far from being narrow-minded has a broad conception with regard to all problems of life.

With such an attitude it was impossible for Professor Houdremont to adopt the ideology and the fanaticism of the National Socialists. In his own vivacious way he often did not hold back his expression of dislike for the political regime in power.

A number of affidavits prove how during the times when Gestapo and terror ruled, he, in an unselfish manner and compromising his own person, helped people who were in distress. As a devout Catholic it was a matter of course to him not to deny his assistance even to Jewish or foreign fellow men. He joined the NSDAP in 1940 only in order to render better assistance to his brother-in-law, Bruno Kurowski, who had been arrested by the Gestapo.

The generally recognized character of my client will make it easier for me to attain the goal of the evidence introduced by me, that is, to convince the high Tribunal from the objective and subjective side that the indictment is untenable.

E. Opening Statement for the Defendant Mueller*

DR. LINK: Mr. President, Your Honors.

a. As Your Honors know the defense will deal with count one in a comprehensive statement at the beginning of the presentation of the evidence. I am going to deal with the following points within the scope of this general part of the presentation of the evidence and the distribution of subject matters arranged by the defense:

1. Technical questions connected with rearmament.
2. Basic information with regard to cooperation with military authorities.
3. The "R-agency" in Berlin.

To *a* 1—Within the scope of this subject matter I am going to show the part played by the Krupp firm in the development of weapons after the First World War until the repeal of the Versailles Treaty. Developments are involved representing the part played by the Krupp firm, one of numerous armament firms, in the rearmament of the German Wehrmacht at the beginning of World War II.

To *a* 2—By necessity we have to start with the mandate of the official Wehrmacht offices in charge of armaments. It will be shown that cooperation with these offices did not represent an activity exceeding a purely technical sphere and entering a general military or even tactical sphere, and that it, on the contrary, remained within the scope of a relation normally existing between purchaser and supplier.

We will have to distinguish between the cooperation of the Krupp firm with the army ordnance office and with the navy ordnance office.

To *a* 3—The "R-agency" meaning "Armament branch office" [of Krupp] was established at the seat of Wehrmacht offices for the purpose of facilitating organizatory matters and decreasing the friction in doing business. It was and remained nothing else but a field office of departments in charge of the respective questions at the seat of the administration of the firm.

b. As the defense counsel of the defendant Dr. Erich Mueller, I summarize my plan of presentation of the evidence as follows:

ONE

1. Dr. Erich Mueller entered the services of the Krupp firm in April 1935. After a childhood full of hardship, an extraordinary technical talent, manifest at an early time, together with iron

* Opening statement is recorded in mimeographed transcript, 22 March 1948, pp. 4754–4761.

zeal launched him, after he had passed examinations with highest honors, and had first proved his technical ability inside and outside of Germany, on a quick ascent in a promising civil service career with the German Reichsbahn. His change-over to industry, to the Krupp firm, is not to be explained by the tasks he had carried out till then, nor was it caused by financial or political considerations.

Only his technical talent is his recommendation and the impulse to prove himself in a field completely new to him.

2. After one year's intensive initiation, Dr. Mueller took over the management of the Artillery Construction Department (A.K.) in May 1936 and kept it until the collapse in 1945. To it, that is, the development of arms, he devoted all his technical knowledge and his uncommon capacity for work. Here lay the gravitational center of his activity, which made everything else seem unimportant for him—marital ties and private life, striving for honors and material gains, public appearance and political activity.

There were, for him, no general economic, no commercial and financial, no military and tactical, but only technical problems. Insofar as he was brought into contact with other questions transcending the development of weapons, these contacts were marginal contacts and were connected with his activities as a designer, as for instance in the case of the heavy ship turrets where manufacture and development went alongside and where he had also to take care of certain target dates.

In the firm he rose steadily, to become a regular member of the board of directors in 1943. These promotions were not the consequences of vain glorious ambition but were exclusively the result of his personal qualities. His domain remained fundamentally the same. Only from April to November 1943 was he charged with the management of the so-called machine enterprises. He, however, was less concerned with the supervision of the process of production but rather more with the organization of the resumption of work interrupted by heavy bomb damage. Dr. Mueller soon realized that this task kept him away too much from his real work as a developer of arms and after only a few months he succeeded in having the management of the manufacturing plants taken off his hands so that he could again devote himself exclusively to his development work.

3. When Dr. Mueller joined Krupp in 1935 he was at first disappointed. The development tasks set by the German Wehrmacht during his one year's service under Ritter were accepted and started without him. When he took over responsibility in 1936, only few new orders came in for the Wehrmacht, orders which did not occupy him to the full. He, therefore, wanted to

leave Krupp again and only desisted from doing so, because at the same time a new and large field of activity opened out for him in which he was given full scope. The pronouncement of the German Reich's military sovereignty caused a great number of foreign countries to take up business connections with Krupp as a supplier of arms connections that had been severed by the First World War and, in the course of the next years, Mueller developed a number of new guns for the armies of these countries. In doing so, he could, free from the tutelage common in German Wehrmacht agencies, give full expression to his development ideas. The guns for foreign countries, therefore, had quite generally a better performance than those developed for the German Wehrmacht before that date.

This did not at all, *per se,* affect considerably the close relationship to the German Wehrmacht. The relationship to them was running along lines fixed by custom. Any advisory activity in the only sector concerned, the technical development sector, was neither asked for nor given. What was done, was the adjustment between specifications and technical execution, as it is usual everywhere. A relationship of trust between Krupp and the ordnance offices could, at the most, be said to have existed with respect to the sector dealing with heavy artillery beyond 17 cm. It was a tradition with regard to the navy. The relationship to the Army Ordnance Office was decidedly bad. Then the Second World War came. Dr. Mueller was as little prepared for it and was as much surprised when it broke out, as were the majority of Germans whose political opinions had been formed only on the basis of the German sources of information.

He never concerned himself with political associations and very definitely lived only for his work. Mobilization plans for the industry, which existed in Germany just as well as in foreign countries, did not make him think of a war of aggression; these plans were never carried out in the intended form anyway and he himself was not concerned with it directly since he had nothing to do with the production.

The outbreak of this war was for Dr. Mueller everything but the achievement of his greatly desired aim, for the very simple reason that the war destroyed or paralyzed for an undetermined period what he by his technical ability had again made possible—the weapons business with foreign countries by the Krupp firm.

4. Since, however, this was the case, it became the devious patriotic duty for Dr. Mueller to place his abilities at the disposal of the German Wehrmacht during the war. He had no other choice.

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What he developed now were not weapons of a certain specific type which were especially suitable for the conduct of aggressive wars, they were completely normal artillery weapons, such as were used by every country and every army of the powers involved in the war. That he also tried to do his best for the German soldier was absolutely natural for him.

5. Following the creation of the Todt Ministry, Mueller was appointed head of the Weapons Commission in 1940. Again he was not recommended by the fact that he was a politician or strategist but only because of his technical knowledge which he had proved in the creation of effective guns for foreign countries. The commission which handled development and production, concerned itself during the first two years almost exclusively with the further development of weapons. After the first setbacks in the East and the considerable loss of weapons in connection therewith, the government raised its demand for increased armament production. It soon became obvious that Mueller was not willing to put up with the intervention in industry which the State deemed appropriate. Dr. Mueller took the consequences upon himself and resigned his office in 1942.

It was, however, the opinion that one could not dispense with this technical experience and that is the reason why he later took over the chairmanship of the Weapons Commission which concerned itself exclusively with research work. These were activities which were carried out by thousands of engineers in all countries.

In connection with this I will explain the purposes of the committees, commission, and industrial associations.

Because of his position as honorary staff member in an organization of the Speer Ministry,[1] Dr. Mueller was used quite frequently to pass on government requests and measures to the firm of Krupp.

Through him, the increased governmental pressure and finally compulsory production in the individual manufacturing fields is applied to Krupp, however, without force being applied by him. His name appears when government orders for the construction of new production sites and for the intensification of armament efforts are passed on.

His participation in the planning of Markstaedt[2] is the natural result of the activities assigned to him in the weapons committee and the connection of this work with Todt and Speer, as is the fact that he was called in by Adolf Hitler during the war in

[1] The "Todt Ministry" and the "Speer Ministry" are identical, Speer having succeeded Todt after the latter's death in 1942.

[2] Bertha Works at Markstaedt, Silesia. It was built by Krupp during the war, and is often referred to as the "S" Works.

order to participate in certain conferences concerning purely technical matters. In spite of that, he does not only protect the interest of the firm against the exorbitant requests of the ministerial agencies, but also his own opinion. From this, certain consequences result for the firm of Krupp and for his own person of which he was conscious and which he accepted rather than give up his conviction.

Thus, he was also brought into the expansion projects in connection with the concentration camp Auschwitz, which by the way never materialized. It will have to be shown that it was neither a question of Dr. Mueller's great personal interest nor of Krupp's capitalistic aims, but of the general compulsion by the State, to which he had to yield in the same way as the Krupp management which had to fulfill the impositions by the State.

6. The indictment especially connects Dr. Mueller with the then head of the German Reich. I shall prove that Dr. Mueller's role as Hitler's "advisor on armament" did not exceed requested and given information on purely technical matters, and at no time extended into the sphere of politics or military tactics. In view of Dr. Mueller's extraordinary gift for technical matters and his lack of understanding of politics and strategy it would have been strange, if it had been different.

TWO

The indictment asserts that this defendant too participated in the so-called exploitation of the occupied territories.

With regard to my client I miss any specification whatsoever in this respect.

Therefore, I can and have to refer within the scope of my presentation of evidence essentially to the facts which had been discussed and proved in connection with the defendants concerned with these problems.

THREE

By making much the same combination the prosecution now attempts to make my client coresponsible for the execution of the so-called slave labor program in Krupp's enterprises.

Wherever State control over production compelled Dr. Mueller to concern himself with questions relating to the employment of workers, it was only in the form of passing on the State's orders concerning the keeping up of production or increasing it.

The actual handling of these questions was reserved to other agencies not subordinated to Dr. Mueller.

Nevertheless, I shall show Dr. Mueller's fundamental attitude to questions relating to the employment of foreign workers, pris-

oners of war, and concentration camp inmates, because it may be seen from it that this forthright disapproval of State orders was just as unavailing as it had been in the case of his codefendants and of other leading men of German industry.

FOUR

As regard to count four of the indictment, I may refer to the legal arguments already submitted to the Court by the defense and on which we shall elaborate, if necessary.

FIVE

The prosecution introduced my client in the trial under the name by which he had become known abroad even more than at home—"Cannon Mueller."

The prosecution has stated in its opening statement that it was not at all the question of prosecuting the firm of Krupp as such, nor the profession of the armorer.

If the Court holds the same opinion, and I am convinced they do, then my client and myself are not afraid of the verdict.

F. Opening Statement for the Defendant Janssen*

DR. SCHILF: Your Honors. On 10 September 1945, Dr. Friedrich Janssen was arrested in his office in Essen by British police, upon the orders of an American agency. On 21 December 1946, he was released by British authorities, but at the end of January 1947 he was rearrested at the hospital in Essen, and on 19 February 1947, he was taken by American agents to the court prison of Nuernberg. Before that date he had been interrogated once by American and once by English officials. In Nuernberg he was interrogated about forty times. The indictment was handed to him on 18 August 1947. That was the first time when, almost 2 years after his arrest, he had an opportunity of speaking to his defense counsel. Until the time when the indictment was served upon him my client, Dr. Janssen, did not know at all whether charges would be brought against him and why he was deprived of his liberty. The indictment was unsubstantiated as far as my client is concerned. Preparations for his defense were therefore a practical impossibility between August 1947, and the time the prosecution presented his case. On 8 December 1947 —which means 2 years and 3 months after his arrest—Dr. Janssen for the first time faced a judge, namely this Tribunal.

* Opening statement is recorded in mimeographed transcript, 22 March 1948, pp. 4761–4774.

Now the presentation of evidence by the prosecution, during the period from 8 December 1947 to 25 February 1948, failed to bring light into the obscurity of the generalized and intangible charges against my client. Outside of only timid attempts, the expected substantiation of the charges against Dr. Janssen did not materialize and to this day it is still unintelligible what correlation the prosecution desires to establish between the voluminous and badly arranged evidence and my client. The brief promised by the prosecution which, according to its statements, was meant to correct this openly admitted defect has not been made available as yet.

Quite obviously, therefore, Dr. Janssen was arrested, interrogated and finally, charged by the American prosecution merely because he was one of the leading functionaries of the firm of Fried. Krupp. It is the only reproach—if it can be such—which the prosecution pronounced, that Dr. Janssen was on the Vorstand of the Krupp Aktiengesellschaft and later a director of the enterprise. That it was the aim of the prosecution to drag the managing officials of this undertaking before this court for trial becomes equally clear from the fact that at one time it even boasted of having gathered together in this dock all of the members of the Vorstand, subsequently directors, of Krupp who were still alive at the time of Germany's capitulation or who had not committed suicide while under Allied arrest.

If in the fall of 1945 Gustav Krupp von Bohlen und Halbach had not been unfit to stand his trial, he would have been tried as one of the defendants of the International Military Tribunal, in the proceedings against Goering, et. al., as it had been the plan of the prosecution. There is reason to assume that in that case there would have been no separate proceedings at all against the defendants here present. The reverse procedure was adopted by the prosecution in Case 11, before Tribunal IV*, according to which Mr. Rasche, for example, one of the directors of the Dresdner Bank, was being arraigned in the case against Weizsaecker, et. al., while the originally planned separate trial of numerous members of the Vorstand of the Dresdner Bank was abandoned.

This observation does not seem superfluous because in our case the indictment mentions my client Dr. Janssen altogether only twice in connection with concrete occurrences (paragraphs 26 and 39 of the indictment of 15 August 1947). Matters are involved in the cases there referred to which merely touch on the fringes. Even though the prosecution had 2 years and 3 months for preparation, it did not in the presentation of the evidence itself

* United States *vs.* Ernst von Weizsaecker, et al., Case 11, vols. XII, XIII, and XIV.

present anything pertaining to Dr. Janssen which is of any criminal relevance. A few statements by persons directly affected is all that is available. Regarding the procurement of these statements in prison and a long time prior to indictment the defense will have a word to say on presentation of its evidence. The parties who furnished such declarations could realize only subsequently that they were to be a means to play them off, one against the other.

The scarcity of concrete evidence discernible even at this juncture already invites any unbiased observer to infer that in our case the prosecution is not so much concerned with proving the personal guilt of each one of the defendants in detail as to attack a "system." In the Nuernberg industrial trials the prosecution levels charges against German private individuals, namely, officials of the firms of Flick, I. G. Farben, and Krupp, in a most generalized and highly defamatory manner. The attacks are of a kind which, evidently, are meant to hit the entire German industry as a whole and, in fact, the attacks are carried out with a definitely anticapitalistic tendency. The discrepancy between mere assertions and actual proof is amazing to the unbiased observer.

As a matter of fact, the charges bear a painful resemblance to other charges made before the United Nations just a few months ago, namely on 18 September 1947, by the Foreign Affairs Deputy Commissioner of the Soviet Union in his capacity as Soviet delegate. The speech of Andrei Vishinsky caused great consternation. Mr. Vishinsky did not assail the German concerns of Flick, I. G. Farben, or Krupp, but the American, and I quote, "capitalist monopolistic combines" such as du Pont, Chemical Trust, the Standard Oil, the General Electric, etc.; Mr. Vishinsky charged them with preparing for a new war. He said literally, I quote:

> "In this war propaganda, representatives of the American monopolistic combines of capitalism, representatives of the largest concerns and of the leading American industry, as well as representatives of the banking and stock exchange elements are playing the most active part. They are the elements who during the Second World War reaped the biggest profits, piling up huge fortunes, analogous to what happened during the First World War."

Mr. Vishinsky classifies as "other warmongers" American politicians, statesmen, and owners of newspapers who are working hand in glove with the American industrialists. Again, an embarrassing analogy to the charges raised in Nuernberg. Nevertheless one must give Mr. Vishinsky credit for his accusations in that

his attacks were not uttered subsequent to the act and not against members of a defeated state.

Instinctively the question comes to mind as to what actually the prosecution is driving at with its campaign against prominent personalities of German industry.

A reply was given by the numerous critical comments from the United States of America and Great Britain and, conversely, the extremely friendly reaction from the U.S.S.R.

The prosecution in the Krupp trial operates from beginning to end with the completely vague and legally irridescent conception of "culpability" or "responsibility." The obvious intention of the prosecution is to construct artificially a "responsibility" which does not exist in life and cannot be fitted into any order based on true law. This is hardly the proper place for advancing juridical arguments concerning the numerous possibilities of interpreting the word "responsibility." In view of the fact, however, that the prosecution wants to employ a nebulous conception of responsibility, not only as a means of joining their evidence together, but also as a link to connect each of the defendants present, it is necessary to clarify something from the beginning: A "responsibility" is logically conceivable only as the *consequence* of an action, the *consequence* of an act and, insofar as subjective premises are concerned, as the *consequence* of personal guilt. If a juridical conclusion is to be reached in any respect, the premises for responsibility must first be determined. The prosecution tries to reverse this process. It attempts to fasten responsibility on the defendants on the strength of purely external, chiefly organizational circumstances without having to prove concrete external actions or personal guilt where a criminal problem is concerned. The concept of "responsibility" apparently, in the opinion of the prosecution, is to become an easily deducible premise to their charges. This follows from their document books 1 to 2 and from their "Basic Information." It aims at converting regulations concerning the legal liability of property according to German commercial law, particularly joint stock law, juridical concept which can concern only the law of property into a criminal offense. The judicial terms which play such an important part in our case, can, however, only be guided by the broad principles of justice and fair play which form the basis of every civilized conception of laws and legal procedures.*

I have undertaken within the scope of the distribution of subjects among the defense counsel, to clarify the legal concept of interest to us here. Since crime is no longer regarded as an

* United States *vs.* Josef Altstoetter, et al., Case 3, vol. III, judgment, sec. VII.

attack on the individual, but on the legal order as such, it is agreed that the provisions of criminal law do not belong to civil law (*jus privatum*) but to public law (*jus publicum*). Criminal law now is generally understood to be that law which is delegated to a superior power—the state power—for the purpose of punishing crimes committed (*jus puniendi*). The sum of the principles at the disposal of this *jus puniendi* forms the *jus poenale,* the *jus criminale.* Private law (*jus privatum*) is to be strictly separated from this. According to the consensus of opinion, this also includes commercial law and the total of regulations referring to property, liability arising out of contracts or law. All concepts such as indemnity based on liability in civil law, have purely financial legal consequences. If, for instance, shareholders or creditors of a joint stock company want to lodge a claim against a leading member of this form of undertaking, they make a private claim, whereas according to modern legal opinion, only the state is entitled to a demand for punishment. According to whether a so-called delict produces such a claim or merely a claim for compensation for damage suffered by the person concerned, these delicts are called crimes, criminal offenses (*delicta publica*), or private delicts (*delicta privata*). Although both these types of so-called delicts constitute legal offenses and therefore must have been committed unlawfully and culpably, they still differ in their legal consequences i. e., the evil threatened by the state will affect a criminal while the legal consequence of a private delict merely leads to the indemnification of the injured party in respect to financial legal obligations.

It will be clear that nothing can be done with the concept of "responsibility," resting on which the prosecution seeks to throw everything into one pot. It will transpire further that a legally constituted commercial organization established for economic purposes, business transactions, cannot be transformed into a criminal system like a tracing pattern. The juridical concepts, particularly of German law which may be derived from the commercial legal organization of an enterprise cannot be converted into criminal guilt even by the prosecution. If the prosecution has submitted documents relating to German commercial law, particularly joint stock law and charges which are meant to demonstrate that from the mere "position" of any defendant within the commercial legal organization of the firm of Krupp incriminating deductions are to be made it will have to be the task of the defense to show that economic events can at the time not at all be confined in such simple schemes, particularly not in those evolved by the prosecution with the intent to imply consequences according to penal law.

I shall also prove that the *firm of Krupp according to its organization* cannot be compared to an official organ or a military hierarchy. It is impossible to apply a pattern to a business enterprise that might appear suitable for a supreme official organization. There may be some kind of "responsibility" in the case of persons who have to direct the affairs of state and who are competent for laws and government orders. It will be shown that Krupp was such a large and complicated economic enterprise that one cannot hold its business executives "responsible" by means of a mere hyphen on a chart for events which are very far removed from the desk of a member of the management, both literally and figuratively speaking. In presenting the case for the prosecution, moreover, it has already been clearly shown in several cross-examinations that boxes and connecting lines in the prosecution's schemes are nothing more than unsubstantiated and arbitrary configurations. In the presentation of evidence, too, everything remained at the alleged stage. The defense will show that, merely on the basis of the actual circumstances prevailing at the Krupp enterprise, such as its size and the number of its plants and workers, it is impossible to make a deduction of criminal responsibility from such a game of circles and crosses.

Finally, I shall endeavor to compare the Krupp structure, in its form of business organization under German law, with the American forms of business enterprise and their corresponding legal concepts.

As regards my client, Dr. Friedrich Janssen, I have already pointed out that the prosecution produced no concrete evidence for the different counts of the indictment that would indicate any connection on the part of Dr. Janssen with the material so abundantly produced. In regard to count one of the indictment, a war of aggression, I shall prove that my client could not have had the slightest influence on the conversion of the Krupp firm to armament production, nor did he personally wish for or help to bring on the war.

Until 31 March 1943 he was head of the Krupp office in Berlin, and as such, he had no influence on the measures taken by the management in Essen. Had the prosecution proved—something which it failed to do—that the management in Essen helped to bring about war, such hypothetical proof would not justify the conclusion of any war promoting activity on the part of my client. In April 1943, when Dr. Janssen came to Essen, all the wars of aggression enumerated by the prosecution had already been under way for some time. Even if the standpoint of the prosecution were to be adopted, because of this time element alone my client could only be charged with waging a "defensive

war," for this was the only kind of war waged in the period from April 1943 until the war's end.

In this connection I wish to quote the IMT judgment in the Speer case. I quote:*

> "The Tribunal is of the opinion that Speer's activities do not amount to initiating, planning, or preparing wars of aggression, or of conspiring to that end. He became the head of the armament industry well after all of the wars had been commenced and were under way. His activities in charge of German armament production were in aid of the war effort in the same way that other productive enterprises aid in the waging of war, but the Tribunal is not prepared to find that such activities involve engaging in the common plan to wage aggressive war, as charged under count one, or waging aggressive war, as charged under count two."

Dr. Janssen has never—neither at that time nor today—been inclined to put himself on the same plane with Reich Minister Speer. Nevertheless, what cannot be taken amiss in the case of the Reich Minister for Armament and Munitions, the Chief of the Organization Todt, Plenipotentiary General for Armament and member of the Central Planning Board, should just as little be taken as a reason to reproach Dr. Janssen—a private person and an employee of the Krupp firm who did not have any awe-inspiring title.

Therefore, on legal grounds alone, count one of the indictment is deficient.

As to the charge of "spoliation," in count two of the indictment, the prosecution failed completely to prove that Krupp had committed any acts of this kind. Had they been able to do so, then merely from the standpoint of time such acts would have been practically completed in April 1943, when Dr. Janssen came to Essen. The removal of the bombed-out motor vehicle department (Krawa) to Alsace had already been ordered by the authorities before Janssen's activity in Essen. In this connection, it is pertinent to refer to the general argumentation by Dr. Siemers. Only the process of determining the rent, in agreement with the German trustee of the ELMAG firm in Mulhouse, occurred in the period in which Dr. Janssen was in charge of the financial department at the Krupp firm. Even the principal witness for the prosecution characterized the rental terms as "reasonable," in other words, adequate. Dr. Janssen was severely opposed to the so-called "Ruhrhilfe-Aktion" (Ruhr Help Drive) of the Minister for Armament and Munitions, Speer. Even if this drive as such,

* Trial of the Major War Criminals, *op. cit. supra*, vol. I, pp. 330–331.

which was carried out by the Reich and military authorities, could be represented on any grounds against the Krupp firm (the argument of the prosecution did not show this), my client could in no way be held criminally or personally responsible. With his very pronounced feeling for commercial propriety, which he maintained, despite the chaotic conditions that progressively worsened in the last phase of the war, he sought to maintain in his financial department a policy of compensation by means of payments, for the properties damaged as the result of measures taken by the governmental authorities.

Under the plan for the assignment of subjects among the defense counsel, I have undertaken the rebuttal of the general charge against the Krupp firm of "spoliation" in Belgium. [Indictment, section I, paragraph 40.] It has no connection with my client, I point out that the argument of the prosecution did not introduce a single word regarding this "spoliation," as charged in the indictment. Therefore, I assume that the prosecution will likewise definitely drop this charge when the defense begins pleading. Furthermore, this is a good example of the discrepancy, which has already been underscored, between the allegations and the evidence produced by the prosecution. In regard to *count three of the indictment, "compulsory labor,"* it is already in order for my argument to cite the following facts: From April 1943 on, Dr. Janssen had a definite and very comprehensive sphere of activity in Essen. It comprised trade and commerce, finance and administration. It will be shown what is to be understood by these terms. In the course of 27 years, Dr. Janssen climbed the ladder in the field of finance and commerce at the Krupp firm, from ordinary salaried employee to Prokurist, Direktor, and finally to commercial representative on the Vorstand. This last position, however, he was able to hold only for a short while. From 1918 until 1937 he worked as assistant to the financial and commercial manager; he had a part in the conversion of the firm, in the commercial sector, to peacetime products after the First World War, and it was his responsibility to prepare the financial statements and reports for the Aufsichtsrat.

From 1937 until 1943 he worked for the sale of peacetime products as head of the Krupp office in Berlin. When, in April 1943, he took over the main financial and business management of the whole of the firm, he had to work on the direction of the financial policy of all Krupp works, the checking of their balance-sheets, the administration of the shares, and other assets of the firm, the purchase of raw materials, and the sale of products. This, his second job in Essen, was in the final phase of the war during which Essen was transformed by Allied air attacks into a

battlefield, and finally into a heap of rubble. Prior to his starting work there the plants in Essen had been destroyed to a large extent. A quick breakdown followed. The periods of respite between air raids were not sufficient to restore the normal Krupp order of administration. Many improvisations had to replace former well thought-out administrative work.

Dr. Janssen's work entirely excluded the possibility of his being employed on labor questions. Therefore, he had even less to do with foreign workers, prisoners of war, and prisoner labor. Furthermore, at the time when Dr. Janssen came to Essen, there had been put into effect to its full extent, a government program which had not only originated with the government but also had been directed and effected by it.

I shall strengthen the supposition of his innocence by proofs of his good character and his love for the truth.

I undertook, together with Dr. Behling, the job of providing the Tribunal with a short review of the financial development of the Krupp concern. It will be shown that the allegations of the prosecution about the financial effects of arms production and the war conditions on Krupp are quite incorrect. Since my client did not take over the management of finances in Essen until April 1943, I shall only describe the financial developments from this time until the end of the war and thereby also deal with the financing of the Bertha Works. Also, by reason of the division of topics, I have undertaken the task of dealing with the far-reaching but so far unproved allegations of the prosecution concerning the "affiliated firms of Krupp which are distributed all over the globe" [indictment, section I, paragraph 6] and their foreign patents and contracts, their license agreements with American firms, and their alleged camouflage [indictment, section I, paragraph 21]. That the prosecution failed to give proof here is another typical example for the difference between the allegations and the evidence of the prosecution.

During the presentation of evidence I shall finally present material which will disprove the theories of the prosecution on the questions of participation in the sense of Control Law No. 10, and on the conspiracy they allege. I shall deal with both subjects on behalf of the whole of the defense.

As far as the term conspiracy is concerned, may I here refer to my memorandum of 15 March 1948, in which I reserved the right to make a statement on the very unclear term "conspiracy" brought up by the prosecution in as far as a conspiracy to wage an aggressive war continues to be alleged by the prosecution. What the prosecution desires to be understood under this common plan, fluctuates in a wide arc between the conspiracy from

the indictment before the International Military Tribunal down to a "Krupp conspiracy," specially construed by the prosecution in our case on 16 December 1947. The conspiracy in the sense of the prosecution before the IMT was, by the judgment of that Tribunal, already limited in such a way, that hardly more than the mere word remained. The prosecution in our case did not make use of the international conspiracy alleged at the time. The conspiracy however, was, by the judgment of the IMT, limited to such an extent that it appears surprising that the prosecution should still employ this term with such far-reaching intent. Quite rightly the French member of the IMT—compare this with my note of 15 March 1948 under II 1st thesis—pointed out that this judgment declined to draw a practical conclusion from this term of conspiracy. The judgment had also taken from this term its important content and limited it to the very narrow concept of collaboration in the carrying-out of a clearly defined act of aggression. The other cases completed meanwhile before the Nuernberg Tribunals have not, so far, deviated from this line first drawn by the IMT.

No doubt, it was not at all easy for the prosecution in this case to place their multicolored theses on the conspiracy at all. It appears to me that the greatest result of their labors is the above-mentioned special "Krupp conspiracy," which, had it ever existed, would logically have led to a special "Krupp war." In view of this argument of the prosecution I should not like to neglect to point out here that the word conspiracy, during recent years, seems to have been robbed of its legal contents, that rather it has now became one of the favorite and most used words of politics. One found it not only in the vocabulary of the dictator, Adolf Hitler—which was also pointed out by the French member of the IMT—but also now in certain police states, who now are arousing the indignation of leading personalities in the United States. It can, however, also be found on the other side as is shown by the speech of Senator Lister Hill of Alabama published a few days ago. He stated: "* * * the world is being driven towards a new war by a gigantic conspiracy led by the Soviet Union." (UP report from Washington of 11 March 1948.)

As opposed to this, it will be our duty, in considering whether the personal and relevant guilt of one of the defendants can be legally established, to deal only with dry and sober facts and hold ourselves at a distance from such discredited terms.

G. Opening Statement for the Defendant Pfirsch[1]

DR. VORWERK:[2] May it please the Tribunal. In the field of planting, producing, and trading with narcotics, the concepts of "national sovereignty" had to give way to the world-wide imperious public demands for effective international regulations. It is characteristic that today anything connected with narcotics is regulated in a most effective manner, and even in cases where national governments adopt an uncooperative attitude there are provisions in the regulations to keep those governments in line.

To my knowledge this supervisory body constitutes the only international control agency, which in its particular field completely overrules all claims to sovereign nationality.

In the field of armament production too, organizations have been created on an international basis and efforts have been made at least in this respect to restrict the armament potential of the world and thus the "national sovereignty" of the individual nations; it has been recognized as undisputably correct that even in the most crucial political times and at the most critical moments in the world's history only those cannons can be fired which exist. These endeavors have so far been without any result. This may be the main reason for the following statement of the prosecution I quote:[3]

> "We do not seek, in this case, to level any attack against the business of making arms as such. We are not trying to prove that all wars derive from the sinister machinations of armament manufacturers and their sales agents. The armorer's trade is no more inherently unlawful than that of the soldier or diplomat; all of these professions revolve around war and statecraft, but that does not make them criminal *per se*."

The question necessarily arises what is the difference between the Krupp firm, in which the defendants were employed, and other producers of armaments, such as the prosecution enumerated, for example, in its opening statement. Inasmuch as these differences refer to the commission of crimes, which is all that concerns us here, it is for the prosecution to produce proof of this.

In the opinion of the prosecution these differences must be serious and must be relevant from the point of view of criminal law, since it felt itself entitled and obliged to bring this charge

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[1] Opening statement is recorded in mimeographed transcript, 22 March 1948, pp. 4774–4788.

[2] A charge made in this statement by Dr. Vorwerk concerning the reproduction of photostats for the defense was followed by a directive of the Tribunal that representatives of the defense and the prosecution jointly investigate the matter. The following day, 23 March 1948, Dr. Vorwerk withdrew certain of his remarks and the Tribunal granted his motion to strike certain remarks in his opening statement. For purposes of clarity, the related proceedings on 23 March 1948 have been reproduced in the text of the opening statement.

[3] Opening statement of the prosecution, section A, above.

before this Tribunal. I refer to counts one and four of the indictment.

Actually it did not hesitate to charge all the defendants with crimes against peace. They were supposed to have planned, prepared, initiated, and waged wars of aggression and to have participated in a common plan or conspiracy for the waging of such wars of aggression.

With regard to counts one and four the defense contends that not even *prima facie* proof has been offered.

In actual fact the prosecution has proved that the firm Krupp A.G. was a large and productive enterprise and that, together with many other enterprises in Germany, it participated in the rearmament of Germany in the same way as many other enterprises in other countries participated in the rearmament of their countries.

But is such proof sufficient? It was not sufficient for the International Military Tribunal. I take the liberty of quoting from the opinion of the judgment of the IMT concerning the defendant Schacht, whom Schmidt, the prosecution witness and Hitler's interpreter, described to this high Tribunal as a "highly informed person." I quote:*

> "It is clear that Schacht was a central figure in Germany's rearmament program, and the steps which he took, particularly in the early days of the Nazi regime, were responsible for Nazi Germany's rapid rise as a military power. But rearmament itself is not criminal under the Charter. To be a crime against peace under Article 6 of the Charter it must be shown that Schacht carried out this rearmament as part of the Nazi plans to wage aggressive wars."

Does the prosecution wish to proceed beyond this limit set by the IMT?

However, I want to be fair and do not want to maintain that the very capable members of the prosecution had overlooked this difficult part of their task. What I do maintain however, is that the prosecution has attempted, with practically no exceptions, to bring only summary proof with respect to the war of aggression, as required by the IMT—summary not only with respect to the defendants, but with respect to the entire population of Germany. In doing so the prosecution obviously proceeds on the assumption that everyone in Germany who held a prominent political, government, or military position or any equally high one in the world of finance, industry, or economics, is automatically to be considered guilty of having committed crimes against

* Trial of the Major War Criminals, *op. cit. supra*, vol. I, pp. 308–309.

peace. But in my opinion such aspects of the case should be a matter to be decided by a denazification tribunal. As I understand the tasks of this high Tribunal, it is not to judge the overall conduct of men but to pass judgment for the commission of clearly defined crimes. Military Tribunal I states the following in its opinion in Case 1 against the doctors concerning the circumstantial evidence. I quote:[1]

> "The value of circumstantial evidence depends upon the conclusive nature and tendency of the circumstances relied on to establish any controverted fact. The circumstances must not only be consistent with guilt, but they must be inconsistent with innocence. Such evidence is insufficient when, assuming all to be true which the evidence tends to prove, some other reasonable hypothesis of innocence may still be true; for it is the actual exclusion of every other reasonable hypothesis but that of guilt which invests mere circumstances with the force of proof. Therefore, before a court will be warranted in finding a defendant guilty on circumstantial evidence alone, the evidence must show such a well-connected and unbroken chain of circumstances as to exclude all other reasonable hypotheses but that of the guilt of the defendant. What circumstances can amount to proof can never be a matter of general definition. In the final analysis the legal test is whether the evidence is sufficient to satisfy beyond a reasonable doubt the understanding and conscience of those who, under their solemn oaths as officers, must assume the responsibility for finding the facts."

Also Military Tribunal II, in Case 2 against Erhard Milch, expressed in its opinion the principle of criminal law recognized by all civilized nations, according to which no man can be sentenced to punishment until his personal guilt has been proved. I quote from that opinion:[2]

> "This Tribunal, before all others, must act in recognition of these self-evident principles. If it fails, its whole purpose is frustrated and this trial becomes a mockery. At the very foundation of these juridical concepts lie two important postulates: (1) every person accused of crime is presumed to be innocent, and (2) that presumption abides with him until guilt has been established by proof beyond a reasonable doubt.
>
> "Unless the court which hears the proof is convinced of guilt to the point of moral certainty, the presumption of innocence must continue to protect the accused. If the facts as drawn from the evidence are equally consistent with guilt and innocence, they must be resolved on the side of innocence. Under

[1] United States *vs.* Karl Brandt, et al., Case 1, vol. II, p. 276.
[2] United States *vs.* Erhard Milch, Case 2, vol. II, pp. 778–779.

American law neither life nor liberty is to be lightly taken away, and, unless at the conclusion of the proof there is an abiding conviction of guilt in the mind of the court which sits in judgment, the accused may not be damnified."

Consequently the defendants could only have been guilty of committing crimes against peace if they had known that Hitler intended to wage a war of aggression and if, in full knowledge of his plans they had consciously assisted in the realization of these plans.

Hitler, however, by no means informed the defendants of his plans, as alleged by the prosecution. Hitler said the exact opposite to the German people and to the world. He spoke not of war, but always of peace.

In this connection it is not without significance that the International Military Tribunal acquitted Hans Fritzsche, whose task it had been to inform the German people by means of the press and the radio of what was happening.

In spite of this fact the prosecution apparently wishes to maintain that everybody in Germany knew that Hitler intended to wage wars of aggression. In its attempt to prove that the prosecution presented an overwhelming amount of evidence concerning the charges of crimes against peace, which evidence contains practically no reference to any of the defendants.

Unfortunately the Tribunal has not indicated whether and to what extent such evidence will be considered relevant in this case.

I shall try to prove why some of the acts with which the prosecution charges the defendants in this connection were lawful and some irrelevant as far as the law is concerned. In this respect I must reserve the right to submit some of the material pertinent to this count of the indictment at a later stage of the statement of the defense, since special difficulties have arisen. For example, the photostat office of the courthouse ceased unexpectedly a few weeks ago to work for the defense; formerly it had done this work as a matter of course.

JUDGE DALY: Excuse me, Dr. Vorwerk, has that held up the preparation of the defendant's cases?

DR. VORWERK: Yes. It has delayed our work.

Q. Has it been taken up with somebody here in the courthouse to see that you can have the benefit of that work?

A. Photostatic copies aren't made to the extent as before; therefore, we were forced to put some material into the form of an affidavit.

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Q. No. I'm afraid you don't understand me. What I meant was that we have established a schedule here and if that schedule is being interfered with, we would like to know it and get in touch with the office here in the courthouse that is delaying you from going ahead on the scheduled basis. That is what I inquired about.

A. Judge Daly, I merely want to explain that I should like to reserve the right for this first part of the defense, with reference to the aggressive war, to submit evidence at a later date, evidence which is not available at the moment.

Q. Oh yes, I understand that, but what I had in mind is this: If you gentlemen have encountered some difficulty with some office here in the courthouse where you expected to get help, we should be glad to see that you got the help so you wouldn't be delayed.

A. Thank you.

Q. And specifically Doctor, what was your statement a minute ago? I am not sure that I have it clear. You said you were cleared, some—

JUDGE WILKINS: Some briefs, I think.

JUDGE DALY: Somebody to do some work for you. What was it?

DR. VORWERK: The photostat office only does certain photostatic work, namely, as far as I know, drawings; nothing else; and this hasn't been the case up to now.

Q. Well, what did you want to have done that was refused? So that we have it on the record.

A. There are charts which deal with a schedule, a construction schedule of Krupp. It concerns extensive plans. It is impossible to draw or to write these plans by hand. If they are not photostated—and apparently they cannot get photostatic copies because only drawings are accepted by the photostat office of the courthouse; however, these aren't only drawings, but lists—and charts of figures, and so forth. I am trying to overcome this difficulty by not submitting these books but in place of these books I try a collective affidavit and substitute it for that, but I haven't got these affidavits available at the moment.

JUDGE WILKINS: Mr. Ragland, are you familiar with this statement that was made here?

MR. RAGLAND: I read the statement, Your Honors. I know of no change in the procedure of the photostat office. I would suggest that the Tribunal ask the Secretary General's office to get a report from Major Granzin, who is in charge of the photostat office, if there is any question concerning the procedures of that office or any change in its procedures.

JUDGE WILKINS: Well, the statement is made: "I must reserve the right to submit some of the material pertinent to this count of the indictment at a later stage of the statement of the defense, since special difficulties have arisen" and then the word, "For example, the photostat office of the courthouse ceased unexpectedly a few weeks ago to work for the defense."

MR. RAGLAND: Yes. I know.

JUDGE WILKINS: "Formerly it had done this work as a matter of course."

MR. RAGLAND: I gathered from the statement of Dr. Vorwerk that there wasn't a change in procedure and that he had a special type of work concerning which prosecution, defense, or anyone else might encounter some difficulties and that the defense was working the matter out with the photostat office.

JUDGE WILKINS: What we want is this—we want to make it clear. The defense have agreed to a certain length of time on which they want to produce their evidence, and on that basis—we have given them a choice of choosing a considerably long recess—and we don't want anything to interfere with that program. And when a statement is made like this we want to pin it down and know specifically just what the charge is. Now we will follow—

DR. WOLF: Your Honors, since this question has arisen, may I add the following: The prosecution in its whole work has presented its documents as photostats and not one original. We have some other Krupp files which afterwards were found at Krupp itself and certainly from the numerous files now available to us from room 306 and 307*—and after that is looked through by the defendants and by the defense counsel we have a large number of documents which we should like to submit within the scope of our defense. These documents are now in these files, in these folders. We have stipulated with the prosecution that the documents we need for defense purposes shall be taken out of the documents in the original and the places in the files will be marked. Of course, it will be the simplest thing for us to exercise the same procedure as the prosecution did; namely, to have photostats made of these documents and to introduce these photostats as exhibits to the Court,—to return the originals to the prosecution. We have tried to do that by asking the photostat office to give us photostats of these originals. We were told that from now on only photographs and charts would be processed—

* Reference is made to those parts of the Krupp files which had been brought to Nuernberg during the course of the Nuernberg trials by the prosecution or other Allied agencies. These files were made available to defense counsel in the Palace of Justice where the Nuernberg trials were conducted. See also the earlier discussion concerning the availability of Krupp files to the defense in section III.

would be photostated, but not simple documents. Therefore, we are forced to submit the documents either in the original—that is, not be able to return them to the original folders—or else to get certified true copies, which, after all, takes much more time. Second of all, it would never make the same impression on the Court as the original itself. These are the difficulties which have arisen through the refusal of the photostat office to photostat all documents in the future except photographs and charts. Consequently, I should like to request the Court to direct the photostat office to put its facilities at the disposal of the defense the same as they were at the disposal of the prosecution.

PRESIDING JUDGE ANDERSON: Let me inquire, Doctor, have the facilities of that department been at the disposal of the defendants in the other cases here in Nuernberg?

DR. WOLF: I can't answer that, because I conducted no previous defenses in Nuernberg before this.

PRESIDING JUDGE ANDERSON: I was just wondering if there had been any change in the procedure of the whole program.

DR. WOLF: I do not know how the defense worked before that. I know from my own experience in this trial that the prosecution offered its documents as photostats.

DR. WECKER: Your Honor, may I answer your question? As you know, Your Honors, I worked in the Flick trial. All documents which we took from the files of the prosecution, as is the case in this trial, photostats were made and were presented as photostats. Therefore, these were documents, not only cards, so that since that time there has been a change in proceedings. And, of course, it is a disadvantage to the defense as compared with the prosecution, as my colleague Dr. Wolf said, that the prosecution had at its disposal the whole technical machinery, whereas now the defense, wherein each counsel has only one secretary, has to copy the whole thing by hand.

MR. RAGLAND: Again, the entire question seems to be one of the photostat office. I would suggest that either the representative of the Court or the representative of the prosecution and the defense would go communicate with Major Granzin, who is in charge of the photostat office and inquire—as to whether there has been any change of procedure, and if there has been we can attempt to adjust the matter. I myself am unaware of any change in procedure.

PRESIDING JUDGE ANDERSON: Whether or not there has been any change in the procedure, there is no reason just yet why facilities of that office shouldn't be made available to defense, if it is going to expedite the presentation of this evidence. Now, we have fixed a definite time limit within which the defense is to

present this evidence and repeat very emphatically that nothing be standing in the way of that being done. We don't want it to be said here when the time comes to be closing that they haven't been able to present their case because some facilities have not been made available to them that should be.

MR. RAGLAND: I agree, Your Honor.

PRESIDING JUDGE ANDERSON: Just a moment. And we expect defense counsel to take this as an example to notify the Tribunal promptly of any further instance that occurs like this so that we can do at least what we can—now, what we can do may be a different question—but we are willing to see that there is no basis or any excuse for any delay.

Now, following your suggestion, Mr. Ragland, suppose you and a representative of defense counsel and the Secretary General here see if you can make an investigation of it. See just what the situation is and if anything needs remedying, why, let us know about it.

MR. RAGLAND: Gladly, Your Honor.

JUDGE DALY: I apologize, Dr. Vorwerk, for breaking in, but I was afraid there might be some misunderstanding, because when I attended a conference with representatives of the defense counsel and the time limit was talked about, they said then that was all right—that if there was anything that we can do, that nothing be in the way of the defense counsel, then it would be done, and it was for that reason that I wanted to have the question discussed now, if something was interfering with the work of the defense counsel to proceed. That is the reason I broke in. I hope I haven't interrupted your trend of thought.

[The results of the investigation directed by the Tribunal appear in the following extract from the transcript for the next day, 23 March 1948.]

DR. VORWERK: Mr. President, I should like to make a statement. I refer to the following sentence of my statement which I made here yesterday. I quote: "For instance, the photostatic office of the courthouse has refused their cooperation with the defense a couple of weeks ago in a manner which could not be foreseen," and I move that this sentence, which I have just read, may be stricken from the record. I move this because after discussing the matter with the competent authorities, the photostatic office will be made available to the defense in the same way as it is available to the prosecution and has been available to the prosecution, and because we also have found out that obstacles which had existed for the defense in this respect were not the fault of the prosecution nor that of the photostatic office as had been assumed regrettably and in an erroneous way by the defense. The sentence to which I refer is on page 8 of my opening statement.

JUDGE DALY, Presiding: As I understand it, Dr. Vorwerk, your motion is to strike from the record so much as appears on page 8 of your opening statement as counsel for the defendant Karl Pfirsch as states this. Will you tell me if I am right in this? Beginning with this sentence, "In this respect I must reserve the right to submit some of the material pertinent to the count of the indictment at a later stage in the statement of the defense." Now, that portion, I understand, those words you want to have remain in the record because it wouldn't make sense if they didn't remain in, but beginning after the comma, the words, "since special difficulties have arisen, for example, the photostatic office of the courthouse ceased unexpectedly a few weeks ago to work for the defense. Formerly it had done this work as a matter of course." Those words, beginning with the word "since" and ending with the word "course" are the words you desire to have stricken from the record, is that right?

A. If my view is correct, if the possibility exists in any case, material belonging to a certain count of the indictment which is not available for the moment, to present it to the defense at a later date by means of a supplementary document book, if this possibility is also given in this trial, I agreed that the proceedings which starts with "I have to reserve," and ends with the words "special difficulties have arisen," that this sentence is also stricken.

Q. I am sorry. I am afraid that what I stated is unintelligible. Let's go back again. So much of the sentence as says, "In this respect I must reserve the right to submit some of the material pertinent to this count of the indictment at a later stage of the statement of the defense," that part you desire to have remain in, do you not, at this time? That is right, isn't it?

A. Yes. That is correct.

Q. So that all that you are asking for now to have stricken out is the following, that is I am quoting: "since special difficulties have arisen, for example, the photostatic office of the courthouse ceased unexpectedly a few weeks ago to work for the defense. Formerly it had done this work as a matter of course." Are those the words included in your motion, are they?

A. Your Honor, not only approximately. Those are just what I am driving at.

JUDGE DALY, Presiding: Yes. Then the motion is granted.

[This concludes the excerpt from the 23 March 1948 proceedings. There follows the remainder of Dr. Vorwerk's opening statement rendered on behalf of defendant Pfirsch on 22 March 1948.]

DR. VORWERK: Thank you, Your Honor. May I continue?

JUDGE ANDERSON: Yes. Go ahead, proceed. Just one moment, Doctor, since we have been interrupted in your opening, it is just two or three minutes until recess time, so, we will take a recess.

DR. VORWERK: I need only refer here briefly to the fact that the prosecution has no legal basis for its opinion that any violation of the armament limitations imposed on the Reich by the Treaty of Versailles constitutes *per se* a criminal act within the meaning of Control Council Law No. 10, punishable also if committed by individuals.

I would consider such an act punishable if it could be proved that the offense was committed with the intention of preparing and waging a war of aggression.

The basic theory of the prosecution, that ever since the first years after the World War of 1914–1918 the aim of the then leading officials of the firm Krupp was to preserve the plant in disregard of the Treaty of Versailles, as a future armament potential, can easily be refuted.

In my opinion, however, the prosecution has not given individual proof of the fact that any such offenses of any importance occurred during the time when the armament limitations of the Treaty of Versailles were in force as far as the tasks of the defendants were concerned, inasmuch as they were employed by the Krupp firm at the time in question.

With regard to count two of the indictment, so-called spoliation, I am of the opinion that the prosecution did not assert—much less prove—conclusively, from the legal or from the factual point of view, that criminal acts were committed. This was especially true in the case of Pfirsch. I can, therefore, limit my defense with regard to this count to emphasizing the negative result of the evidence submitted by the prosecution, in order to point out that in his field of authority Pfirsch neither had to make nor actually made pertinent decisions, that he had no part in any decisions of that nature, if such decisions were made by the firm Krupp, in fact that he was not even informed of them, but above all had no part in their execution.

The same is true in the case of count three of the indictment, so-called slave labor. The prosecution has failed to bring any proof that Pfirsch played any important part in the formulation and execution of the official so-called slave labor program, or that he knew about the relatively isolated abuses which may have been committed by subordinate functionaries in the course of the treatment of the foreign workers whom Krupp rather unwillingly employed. Since the prosecution has thus far been unable to bring any serious charges against Pfirsch in this respect, I can limit my defense with regard to this count mainly to pointing out these

shortcomings of the prosecution and its presentation of evidence.

Summing up, I wish to say that I consider the material brought by the prosecution against Pfirsch insufficient on all counts of the indictment. Should the Tribunal still have any doubts on individual points, I am convinced that the evidence which I shall submit will remove them.

Since I have to represent the basic principles with regard to count one of the indictment on behalf of all the defendants, I need, in view of what I have already said, only refer to the motions submitted by the entire defense.

H. Opening Statement for the Defendant Ihn*

DR. POHLE: Your Honors, like most of the other defendants, my client, Max Ihn, is also charged with crimes against the peace and with participation in the criminal preparation and waging of aggressive wars and in a conspiracy relating to the preparation and waging of such aggressive wars. Although repeatedly challenged by the defense, the prosecution has neglected to substantiate its charges in detail and to demonstrate the personal connections which are alleged to exist between the individual defendants and the criminal preparation and waging of aggressive wars. I am not dealing with this subject on behalf of the defendant Max Ihn. For he as personnel chief does not occupy an important position among the defendants from company owner to the chief of the supreme camp leadership. Consequently, I merely reserve the right to make supplementary remarks on this topic, in the evidence procedure.

Likewise, I shall be able to confine myself to brief additional explanations of count two of the indictment, that is, the so-called spoliation. To this count the prosecution, in spite of the objections raised by the defense, has not produced anything either that would even allude to a responsibility of the defendant Max Ihn for these allegedly criminal actions. Nothing but the fact that he was a member of the directorate of the firm of Krupp. This subject I also leave to the spokesmen within the defense.

On the other hand I shall comment extensively on the so-called "slave labor program." On behalf of the entire defense I have taken it upon myself to explain to you the principles according to which the employment and treatment of the foreign workers were effected in Germany and at the Friedrich Krupp A.G. during the war. In this trial, too, I am obliged to explain these principles to the Tribunal, although during the Flick trial I had an oppor-

* Opening statement is recorded in mimeographed transcript, 22 March 1948, pp. 4788–4798.

tunity of revealing to the Court the true picture of the employment and treatment of foreign workers in Germany during the war in all its aspects. For not only by the wording of the indictment, but also by the documents incorporated in its evidence, the prosecution demonstrates that it is going to charge the defendants in this trial with having participated in the forcible removal and deportation of the foreign workers, basing such charge on the same arguments which were often refuted during the Flick trial. I reserve to a later stage of the trial my juridical comments on the criminal actions as defined by Control Council Law No. 10 on which the prosecution bases this charge.

On scrutinizing the argumentation of the prosecution we encounter also in this trial a fundamental mistake which the prosecution, obviously deliberately, maintains and fosters: the misleading premise—which drags on and on like an eternal illness—that "at least 5 million workers were forcibly removed to Germany." The indictment in the Flick trial admitted at least that 200,000 came of their own free will. In the Krupp trial this admission is obviously being withdrawn. I shall furnish proof showing that these figures are very, very far from correct. Not even the International Military Tribunal made the statement maintained by the prosecution. It only referred to the notorious statement of Sauckel in the Central Planning Office to the effect that out of 5 millions of workers hardly 200,000 had come voluntarily. But at no time did the IMT make this figure the basis of any positive statement as to the number of the workers employed in Germany against their will.

In this connection I shall submit evidence to the Tribunal to show that the so-called unwilling workers from some countries came to Germany with the full consent of their respective governments. This evidence will also show that the introduction of labor service in the various countries outside of Germany must be appraised from a different angle. Conditions in the western countries were different. They were fundamentally different from those in the East. In this trial, too, the prosecution failed to explain in detail what, in its opinion, makes the indicted industrialists parties to the deportation of foreign workers. These defendants, among them the defendant Max Ihn, were no government officials, no political functionaries who were cooriginators of the Sauckel programs. These defendants were private persons, employees of an industrial enterprise, like many thousands of their colleagues. For this reason I shall also call the attention of the Tribunal to the question of whether it is possible to try private persons, business men, and industrialists, before this

Court which has to decide on the responsibility under international law.

But even if they were responsible under international law, the prosecution did not furnish sufficient evidence to show that these businessmen whom it put into the dock took part in the expansion of the foreign labor program as such. This program, as the prosecution sees it, spreads over many years and many countries. The defendants in the Flick trial still had to defend themselves against the charge of having compelled the German Reich Government, out of greed, to recruit and allocate foreign manpower. As far as that is concerned, the prosecution learned something from the Flick trial. It obviously no longer asserts that the industry instigated the government to formulate this program. But it still maintains that the defendants, as representatives of the firm of Krupp and—some of them—through their memberships in committees and other bodies belonging to the Reich Association Iron, the Reich Association Coal, and the Economic Group Iron Producing Industry and other organizations, had criminally participated in the government program.

Whether these reproaches are correct or not can only be ascertained if this program is being defined in all its various functions such as, supply, allocation, and assignment of foreign workers. The program as a whole has been condemned as criminal by the IMT judgment. A reference thereto does not suffice for establishing the guilt of the individual defendant. For if we find that the defendants only participated in various sections which in themselves were not criminal, or had no knowledge of other sections, then it would be impossible to punish them.

"* * * The slave labor program had its origin in Reich governmental circles and was a governmental program * * *." Already some time before the introduction of "* * * the slave labor program here under consideration the employment of labor in German industry had been directed and implemented by the Reich government." Bearing these statements of the Flick judgment* in mind, it should have been the task of the prosecution to submit weighty evidence to the Tribunal to prove that these statements do not, in fact, correspond to the truth. They were, however, not in a position to do so. In their place, however, I myself will submit evidence to the Tribunal that will substantiate the correctness of the Flick judgment.

It was the National Socialist State which by its manifold authorities and agencies difficult to survey and by an intricate organization, managing and directing production, provided the plants with detailed directions as to the nature and amount of

* United States *vs.* Friedrich Flick, et al., Case 5, judgment, vol. VI.

their output. These government agencies and authorities were the ones which controlled the governmental imposts and which saw to it that each individual contractor fulfilled the obligations lest he run the risk of being involved in difficulties should he do otherwise. I shall prove that the State took it upon itself to encroach upon the entire industry by showing in evidence a countless chain of laws and regulations which originated in 1933 and which continues throughout the period of the Four Year Plan and further extended throughout the war, until during the second half of the war the term "private enterprise" was the catchword of past liberal ages.

Evidence will prove the serving part the industries had to play. It will also prove that the private persons here indicted were squashed by the events and were driven the same as the last of their apprentices, but not that they were responsible for the events.

This force used by the State expressed itself during the war has a constantly increasing pressure on the enterprises for higher production. It was the State and only the State which gave the orders for the type and quantity of production. The State had therefore to find the prerequisites for the production, like machinery, power, raw materials, and manpower. The enterprises had no more say in the application for more manpower than they had in the matter of production. Each State production program was bound to be also a program of labor allocation by the State. The prosecution has not even asserted that the defendants had the possibility of evading this State coercion. What should they have done, what should they have been expected to do? This question is left unanswered, because, prudently, it has never been put.

No evidence has been offered in this respect at all. I am going to answer this question unequivocally and to substantiate the answer just as unequivocally. The resulting picture will be convincing to everybody conjecturing that the defendants had freedom of action. The last vestige of freedom of action left to them the defendants have utilized in the sense of their old traditions for the benefit of their staff. In explanation of these conditions I am also going to expound the internal organization of the enterprise and give at the same time an outline of my client Max Ihn's position. I am, however, not going to stress this point more than is necessary in order to elucidate his functions within the firm.

In these expositions I shall confine myself principally to the procurement, utilization, and distribution of foreign labor.

Dr. Wolf will undertake the task of examining the question of requisitioning and employing prisoners of war and its admis-

sibility under international law,[1] while Dr. Wandschneider will comment on the subject of employing concentration camp inmates.[2]

Thereupon, I myself will deal with the question of the treatment of foreign laborers. Here too, in the interest of a lucid comprehension of the subject matter, we have made certain subdivisions. I myself will comment on the principal aspect of the treatment of foreign laborers in Germany during the Second World War. The welfare of the prisoners of war will be dealt with in principle by Dr. Wolf also, while other fundamental questions, such as the maintenance of law and order in the plants and regulating the life in the foreign labor camps, will be treated by other defense counsel. I am going to show then what the Krupp firm has done with the state program. It will be shown that the problem of the welfare of foreign laborers did not exist for the Krupp concern as a whole but independently only for the single plants. As far as detailed comments will be necessary on purely local assignment and treatment of foreign laborers and prisoners of war in the various Krupp plants, this will be done by the individual members of the defense, who will inform the Tribunal of it in their opening pleas or at the appropriate time.

Also with regard to the treatment of the foreign laborers, the prosecution is trying to create a completely false impression with this Tribunal. It considers all foreign laborers equal to slave laborers. The assertion from the prosecution indictment "that millions of prisoners were herded into concentration camps and then were driven to their death in factories and mines or, in a quicker way, in the gas chambers" bears its own characteristics, so that every further comment on it is superfluous.

Subsequently, the prosecution contends: "The treatment of slave laborers and prisoners of war was based on the principle that they were to be fed, housed, and clothed in such a manner that, with the lowest possible cost, they could be exploited to the highest possible extent." This formula, which has been warmed up and served once more in the Krupp trial, owes its existence to a translation error in a sentence by Sauckel, which probably has been left standing on purpose and against which we have already protested in the session of 28 January 1948. From a translation which, according to my opinion, is correct, nothing else emerged but an economic principle which is obvious in political economy. There was no question of "exploitation" in Sauckel's decree. I will produce evidence showing that the employment of foreign laborers was neither meant to bring profit

[1] Opening statement for the defendant Lehmann, section L, below.

[2] Opening statement for the defendant Korschan, section J, below.

to an industrialist, nor did it bring such profit. On the contrary —the industry has had losses in connection with employing foreign labor, which even in a state budget would constitute imposing items.

In the document material, the prosecution has submitted inter-office communications of Keitel, Thierack, and other personages of the Third Reich, with which they purport to prove the criminal nature of the foreign labor program. But they have not maintained, nor can they do so, that the defendants had any knowledge of it. To these defendants, the "program" presented itself in a multitude of laws, regulations, and official decrees. I shall prove that nothing in them points to an enslavement. Many regulations are purely welfare measures and the IMT has expressly certified that Sauckel does not seem to have advocated a brutal treatment of the foreigners. Hence the indictment of the prosecution boils down to the fact that the defendants obeyed the laws of their country. I shall prove that there was no cause whatever for the defendants, not to follow the instructions of the State. With regard to the decisive accusations concerning wages, payment, leave regulations, etc., I shall submit the essential regulations to the Tribunal.

My colleagues will supplement my statements as regards billeting, feeding, medical care, and the maintenance of order. All these regulations were not inhumane. Their execution was mainly in the hands of the administration of the State which maintained a strict control of the enterprises for this purpose.

The prosecution knows that it is up to them to prove the assertion that "foreign workers, prisoners of war, and inmates of concentration camps were exploited under inhumane conditions in the Krupp enterprises and that they were exposed to atrocities, maltreatment, and offenses against their persons in countless ways." Allegedly this went on continuously for years in 81 enterprises which numbered nearly 100,000 workers. As late as June 1947—the prosecution would not have made such assertions. At that time, the prosecution advertised in the "Mitteilungsblatt fuer die Politisch Verfolgten" in Bavaria ("Gazette for Political Persecutees" in Bavaria) asking all those who were maltreated in the Krupp Works to report in order to facilitate the punishment of the criminals of the Krupp case. I do not know how many replies were made to this. But it seems to me that their number cannot have been very satisfying. Otherwise, the evidence of the prosecution would have had to be more convincing. Nobody will want to deny that severities and excesses occurred under the conditions of the war years. It could not have been otherwise when thousands of people of many nations were crowded together, with

the political tension, and with the spiritual and material distress of all, and the nerve racking bombing from the air. But the crux of the matter is the fact that there was no organized system of inhumane treatment in spite of all the excesses to which individual witnesses have testified. Such a system cannot even be proved by witnesses like Elisabeth or Ernestine Roth who stated that she and her colleagues were beaten twenty times a minute. All the description of the witnesses stop at some sub-leader of a camp, a foreman, or perhaps an assistant of the plant. Since the indictment does not claim that the defendants personally kicked them or maltreated them (the prisoners), members of the personnel, that is, workers or officials of the firm Krupp itself, must be considered as the culprits. The Court knows from the letter of protest, dated 25 February 1948, which the present works council has forwarded to the American Military Tribunal III with copy for the prosecution, what opinion the present personnel of Krupp has of the matter in question. It is stated therein that the witness Ernestine Roth wanted to prove the collective guilt of the workers of Krupp. The letter continues as follows; I quote:

> "We protest herewith against this in the name of our employees whom we represent. We know all too well of the tragic fate of those who were deported by force. We also know that there were German and Krupp workers who let themselves be induced to maltreat the foreign male and female workers under their care. They represent, however, but a small percentage of the personnel."

These individual cases, can only be of importance in this trial, if the defendants had knowledge of them and neglected to take steps which they were in duty bound to take, in order to prevent such incidents in the future. The prosecution has not stated any facts and has not proved anything. As far as I can note, all witnesses have declared that they did not submit a report to higher supervisors with regard to individual incidents.

In contradiction to all this I shall submit material to show how much the defendants were conscious and aware of their obligations, in accordance with a frequently quoted sentence of the great founder of the world-wide fame of Krupp, Alfred Krupp: "To make work a blessing, by caring for the welfare of the community." The Tribunal will obtain an insight into the system of the plant control and the supervision in its smallest details, which were destined to guarantee decent conditions in the plants and for the workers and a good, decent name in the world. In this connection it should become clear how insignificant politi-

cal ideologies appeared to the defendants in comparison with the ideals of a model concern along Krupp lines. Together with my colleagues I will prove that the foreign workers employed by Krupp were, within the sphere of existing possibilities, treated in such a way, with regard to freedom, accommodation, nutrition, pay, working hours, and health, that in these proceedings also, the Tribunal will arrive at the same conclusion as was reached in the Flick case, namely, that "the evidence offered in support of these charges was * * * far outweighed by the substantial and impressive evidence submitted by the defendants to the contrary"* and that "isolated instances of ill-treatment or neglect shown by the evidence were not the result of a policy of the plant's managements, but were in direct opposition to it."

In consideration of all these individual matters which I will present to the Tribunal by means of documents, witnesses, and pictures, one thing, Your Honors, will play an important part: The circumstance that the great mass of foreign workers employed by Krupp were assigned to the plant by the State without the plant having requested these workers, at a time when the war had already become total. At that time, want and privation of all kinds were prominent in the entire German population, the male part of which had suffered tremendous losses on the battlefields of the East. From the middle of the year 1942 onward, the whole of Germany, but especially the Ruhr area with its linked-up cities, was suffering from the effects of heavy enemy air attacks. I cannot convey to the Tribunal the gruesome experience, but I can prove the fact that Essen was a battlefield. The war in the air raged there for years on end and made ruins of the city of Essen, its industry, its cast-iron production, and its people.

It will be easy then for the Tribunal to conclude what demands may, under these circumstances, be made in good faith on the welfare duty of the defendants.

In connection with all this, concerning questions of the internal organization of the firm of Krupp, there will be little mention, except for a few remarks, of my client Max Ihn. However, on having produced the evidence, I shall go into the details of his person. As personnel manager of the firm of Krupp, he lived and worked just as numerous other personnel managers of other firms do. None of them is in the dock; most of them pursue today peacefully their old professions in their former positions or occupy, with the approval of the military governments of their zones, public offices in the German states. Max Ihn, in his entire personality, is just as little a criminal as his colleagues

* United States *vs.* Friedrich Flick, et al., Case 5, judgment, vol. VI.

of the other big firms of the Ruhr. He is not a criminal just as is none of the other defendants in the dock here.

1. Opening Statement for the Defendant Eberhardt[1]

DR. SIEMERS: May it please the Tribunal. I have the honor today to make the opening statement in the third and the last of the trials of industrialists in Nuernberg. The first trial against industrialists, namely the trial against the Flick concern has already been concluded by the verdict of the American Military Tribunal of 22 December 1947. In fundamental questions this verdict was pronounced in favor of the German industry. It followed largely the arguments of the defense and consequently rejected many theses of the prosecution.

The second trial of the industrialists against the I.G. Farben concern is still within the stages of presentation of evidence by the defense and the third trial of industrialists, that is, the one of interest here against the Krupp concern, will now begin with the defense.[2]

In comparing the indictments and the opening statements by the prosecution in these three trials a remarkable similarity is manifest which goes so far as to show the prosecution using the same exaggerating expressions in all three trials. To my dismay, the prosecution fully disregarded the old latin proverb, "*Variatio Delectat*" in these three trials. Counsel for defense in the third trial therefore finds it difficult to be versatile if the prosecution on their part have remained dull and neglected to offer proof of their ability, that is, if they have not varied their points. This is not a reproach arising solely from the sphere of aesthetics however much I must admit that I find this sufficiently important. It is moreover a point which involves more and touches the juridical and philosophical sphere. Roosevelt's and his Allies' intention, upon which the trial before the International Military Tribunal in 1946 was based, did not only serve the purpose of indicting the highest political, military, and Party leaders of Germany, but beyond that it contained the sound and great idea to establish the most important principles of international law, binding for the whole world, binding for victor and vanquished. To a certain extent this aim has been accomplished. Unfortunately however it is the prosecution who endanger this goal by not complying with the principles of the IMT judgment but by deviating from it wherever the judgment contradicts their own

[1] Opening statement is recorded in mimeographed transcript, 22 March 1948, pp. 4799–4815.

[2] Dr. Siemers was a defense counsel in each of three industrialist trials and in the IMT trial.

theses, thus for instance, whether facts which occurred before 1 September 1939 can be made a basis for the charge of aggressive war and spoliation. The judgment in the IMT trial, as well as the judgment in the Flick trial, has rejected such facts as are connected for instance with the annexation of Austria in March 1938, or with the occupation of the Sudetenland based on the Munich agreement of 1 October 1938, or with the Aryanization prior to 1 September 1939. The IMT judgment rejected the collective guilt of Germany as propagated by the prosecution and demanded a positive knowledge of Hitler's aggressive plans if sentence for aggressive warfare was to be passed. The facts of rearmament and violations against the Treaty of Versailles have been dealt with thoroughly and in detail in the IMT judgment and no guilt was established with regard to this count. The prosecution however was not moved by this ruling, it repeated its old theses with which we are acquainted here in Nuernberg for the past 2½ years and it is not aware of any new developments, of any variations. The only progress which may be ascertained with regard to the prosecution, consists in their waiving the trial already prepared against the German banking syndicates.

The complete similarity in the indictment against the three largest concerns confirms the thesis, repeatedly represented by me, that the prosecution does not wish to prosecute the individual defendant but that it wishes to prosecute the whole of the *German industry* and the whole of the *German economy.* It is a mere coincidence that the defendants had the misfortune to be working in one of the largest and best known concerns. The fundamental charges raised against the defendants may be raised against numerous Germans and this was actually done. In this connection one need consider only the large number of Germans that were subject to so-called "automatic arrest" and the great number of industrialists who for more than 2 years were arrested as so-called "witnesses" and were or still are confined in the Nuernberg prison. With regard to count one, *aggressive warfare,* not only the defendants but the whole industry is charged with having given support to Hitler in general and support to his aggressive plans. The same is true with respect to count two, *spoliation,* and count three, *employment of forced labor and prisoners of war.* In the opinion of the prosecution all activity of an industrial enterprise in the occupied area is to be regarded as spoliation and as a war crime. If this were correct, every German who, during the course of the war worked in the occupied territory within the sphere of the German industry would be guilty of this crime. In the opinion of the prosecution the mere employment of a foreign worker and the employment of

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a prisoner of war in the armament industry would constitute a war crime. If this conception were correct the number of guilty Germans would be infinite. For then, every owner of a large, medium, or small industrial enterprise or of any workshop and each supervisor, engineer, foreman, and laborer in whose department or shop foreign workers had been employed would be liable to punishment as participant as defined by the Control Council Law. This concept however is incorrect, it must be incorrect and it has logically been rejected in the judgment in the Flick trial. Only the prosecution continues in this train of thought and it is biased in favor of the Morgenthau plan.

It is regrettable that the prosecution conducts the trial as if no binding rules had been established by the IMT judgment and as if no judgment had been pronounced in the Flick trial. Unfortunately the trial is considerably prolonged by such conduct of the prosecution. Many points are settled by themselves if one takes the judgment in the Flick trial as a basis. In this respect I shall only remind you of the viewpoints in the IMT judgment, already mentioned by me, and beyond that with regard to the judgment in the Flick case I shall recall the fact that the American Tribunal in that case recognized the political and economic dictatorship prevailing in the Third Reich and consequently acknowledged the state of compulsion the German industry was subject to. The trial could be conducted easier, more speedily and affording more of a general view of the whole. In order to facilitate the trial, in spite of the adverse attitude of the prosecution, I intend to proceed from the foundation laid by the IMT judgment and the judgment in the Flick trial in important questions concerning international and penal law in the complete conviction that the Tribunal will recognize the foundation laid by both these judgments since both trials have been conducted with the utmost care and accuracy.

If the trial against Krupp and I.G. [Farben] does not afford a general view of the whole and if the material presented has assumed boundless proportions, it is largely due to the fact that charges of planning and preparations for aggressive war have been raised in the Flick trial but have not been incorporated as a special count in the indictment. The prosecution in both these trials has submitted immense material in order to prove by circumstantial evidence what it cannot prove directly. The defense, in presenting its evidence, shall deal with this comprehensive material and is compelled to deal with it because the prosecution sees incriminating evidence in it in spite of the IMT judgment to the contrary, for example in rearmament in the introduction of the MEFO bills of exchange—a point, which has

already been settled by Schacht's vindication—and in the so-called violations against the Treaty of Versailles and also the further material with regard to the promotion of exports and the organization of sales agencies, which the prosecution also desires to regard as evidence in the preparation for aggressive warfare.

Today, however, I would like to avoid details—no matter how enticing it might seem for example, to treat, in an ironic manner, the promotion of exports as preparation for aggressive warfare—and limit myself to the fundamental question. It is—I beg to be excused for speaking plainly—a bizarre idea, that German industry and especially Krupp supposedly supported Hitler in his aggressive plans and prepared for aggressive warfare. This idea can only originate with a prosecuting body that is accustomed to the personal freedom of a democracy in America and forgets that the National Socialist State was the most extreme form of dictatorship, a fact, which must repeatedly be pointed out and which perhaps can only be understood in all its implications by someone who has lived through the Third Reich and who continually observed the development into absolute dictatorship. The prosecution believes that Hitler came into power with the aid of the heavy industry and takes this as the basis for its further arguments. It is just this basis, however, which is incorrect and frequent repetition does not make it more true. In reality Hitler, from the beginning to the end, was prejudiced against the industrial and economic leaders and intellectuals in particular. This antagonistic attitude is repeatedly shown by Hitler himself and by all of his followers. Thus, for example Hitler stated the following on 10 November 1933 on the occasion of a speech in Berlin-Siemensstadt, I quote now:

> "It was not the intellectuals who have given me the courage to begin this gigantic work, but I have gained this courage only because I knew the German worker and the German farmer. I knew that these two would one day be the ones to uphold the new Reich."

And in 1940 Hitler said:

> "The time has come to create an example and to put a German industrialist against the wall, and a prominent one at that."

The prosecution's idea appears even more bizarre, if one considers the position of my client, Mr. Eberhardt. He was a business man and director of a department and became a deputy member of the directorate only well along in the war at a time when aggressive warfare had long been initiated and Germany

was entirely on the defensive side. Here too, it can be seen that the prosecution has ignored the IMT judgment. According to the IMT judgment only those can be found guilty under the count of aggressive war who at the time when aggressive wars were prepared held a leading position in the state and, moreover, had a positive knowledge of Hitler's aggressive plans. The IMT judgment has assumed such positive knowledge with respect to Hitler's plans only if the defendant in question had a direct close relationship to Hitler and particularly knew of Hitler's declarations contained in the so-called key documents, that is, in the four secret speeches before the key commanding generals [Oberbefehlshabern] of the Wehrmacht, of 5 November 1937, 23 May, 22 August, and 23 November 1939. The prosecution has not adduced proof for this, has not even made an attempt at proving it. Never can a person, who neither knew Hitler's aggressive plans nor was in a position to know them on account of his position, be held criminally responsible on the count of planning or preparing an aggressive war. The most significant example in the IMT judgment is perhaps the former Reich Bank President and Reich Minister of Economics, Schacht, who was acquitted by the International Tribunal, because he did not take part in the meetings referred to and therefore could not know Hitler's plans.

I now come to the *conduct of the Krupp firm in the occupied territories,* that is, those acts which the prosecution summarizes under the term "spoliation."

I should like to remark that on the basis of an agreement between the various defense counsel I have taken it upon myself to deal with the rudiments of law and international law on the subject of "spoliation", and I shall accordingly deal with this subject in my presentation of evidence and later on in the closing brief.

The term spoliation is not defined in the Control Council Law No. 10. It is merely listed as an example in Article II, paragraph 1(*b*): "Atrocities or offences against * * * property constituting violations of the laws or customs of war * * *."

Thus spoliation from the point of view of international law involves State or private property, particularly however, private property. Alone the fact that the Control Council Law *does not contain a definition* shows a certain *uncertainty,* which, as I will show, is not reduced, but increased, by its reference to the "laws or customs of war."

In this connection it is interesting to note that the basis of the Control Council Law is formed essentially by *three fundamental concepts,* that is, *peace, property, and humanity,* which belong to

the most important ethical and social problems of mankind. Furthermore it is interesting to note that the Control Council Law builds up its criteria of crime on these three fundamental conceptions, which rightfully should be protected, and accordingly bring forth the three most important points of the indictment, that is: count one of the indictment, the crime of an aggressive war; count two of the indictment, spoliation; and count three of the indictment, crimes against humanity.

Despite the Kellogg-Briand Pact, despite the Hague Rules for Land Warfare and despite the Geneva Prisoner of War Convention, *no codified penal laws for these offenses* existed up to this time which would have been valid throughout the world. *De lege ferenda,* it is therefore surely a commendable act, if an attempt is made to create an international penal code which will be generally applicable, and this path has been entered upon by the London Statute and the Control Council. However, it appears hazardous that this attempt was not subsequently made *for the entire world,* but is *only* effective *against the citizens of the defeated countries.* It is questionable to create laws which are only directed against citizens of certain states; it is an uncomfortable reminder of a similar period, when the National Socialist State created laws which were directed only against members of certain races.

The charter of the United Nations shows exactly just how far removed we are today from a penal code that is actually valid for all nations; in Article 53, paragraph 2, the "enemy state" is defined as a state which was an enemy of one of the signatory powers during the Second World War. According to Article 107, it is not permissible to refer to the charter so far as actions are concerned which are directed against a so-called enemy state. Talleyrand in the Vienna Congress had already fought against such discrimination and against such discriminatory treatment in the interests of the French people. It is felt even by our opponent, General Taylor that such discrimination is dangerous. Although this cannot be gathered from his speeches held in Nuernberg with respect to the indictment, it may be gathered from a lecture which he gave on 28 July 1947 before the Fifth International Congress on Criminal Law in Geneva. In Geneva he pleaded with the following words for the planning and the establishment of a permanent international tribunal to enforce the international penal code (*Eberhardt 808, Def. Ex. 2917*):

> "The creation of such a jurisdiction, with power in the tribunal to enforce its decisions, is a task of formidable delicacy and complexity. But it must be discharged and promptly for the very reason that international penal law is being enforced

today against nationals of the defeated Axis Powers; the trials of war criminals, and the principles on which they are based, will be stultified by failure to universalize these principles and their attendant sanctions."

I have observed with great pleasure, that General Taylor recognized in neutral Switzerland and in free Geneva the basic principle of equality of all people before the law, for the very reason that it is a fundamental principle of international law. It is furthermore a guiding principle of the Constitution of the United States of America and a constituent part of human rights proclaimed in the principles of the French Revolution also an inherent part of the United Nations Charter, which in Article 1, paragraph 3 proclaims the respect of human rights as a sacred principle. It is however regrettable that the charter violates the *sacred principle* in sections 53 and 107 and that General Taylor, as Chief of Counsel, *does exactly the same* in Nuernberg.

There is another reason, which renders more difficult the legal reasoning in these trials. In all civilized countries there exists the principle applying to every penal law, which charges the defendant with having committed a legally *defined crime.*

During the 34th Conference on International Law in Vienna, 5–11 August 1926, a participant asked with regard to international crime committed by an individual (*Eberhardt 806, Def. Ex. 2915*):

> "Suppose I were the defendant, how should I know what I should have done and what I should not have done? * * * I do not know what the public prosecutor is going to say to me. He starts and says: You did this, this, and this. I say: Where is the paragraph which forbids me to do this? And he says: there is no paragraph, but a public opinion of all the lawyers in the world. I say: As I am no lawyer and have never read a juridical book, I cannot know that."

Whereupon Lord Phillimore answered:

> "A man must be charged with a definite crime. Nobody doubts that."

Contrary to this principle the prosecution has not even once made the attempt, to define the legal concepts on which the indictment is based, namely war of aggression, spoliation, and crimes against humanity. Above all no precise and exact definition exists, neither in international laws nor in the Control Council Law.

In this connection the reasoning, submitted by the American Military Tribunal in Nuernberg in Case 3, the Justice trial,

seems of great significance, and which refers to the legislation, which Hitler issued on 28 June 1935. Paragraph 2 of this law reads as follows:[1]

> "Any person who commits an act which the law declares to be punishable or which is deserving of penalty according to the fundamental conceptions of the penal law and sound popular feeling, shall be punished. If there is no penal law directly covering an act it shall be punished under that law which most closely fits, in regards to fundamental conception."

The American Military Tribunal comments on the Hitlerite working of the law:[2]

> "In substance this edict constituted a complete repudiation of the rule that criminal statutes should be definite, and certain, and vested in the judge wide discretion in which Party political ideology and influence were substituted for the control of law as the guide to judicial decision."

I believe that in this case a parallel exists between the Hitlerite law and the Control Council Law, that is to say, a parallel with regard to the complete vagueness of the issue; the only difference is, that the conception of popular feeling in the Control Council Law is replaced by world conscience.

Any definition concerning count two of the indictment, that means within the sphere of so-called spoliation is conspicuous by its absence. The points of reference in the Hague Convention are few and vague. As I mentioned before, no definition whatsoever is to be found in the Control Council Law and the same applies to the indictment of the three trials of the industrialists. Based on the opinion of the prosecution any activity of an industrialist in occupied territory turns in fact into "spoliation," regardless of whether or not this activity was carried out in the interest of the economic potential of Germany or in the interest of the economy of the occupied country. It is significant for the confusion of the conceptions of penal law, that it is to be regarded as "spoliation" of private property in occupied territory, if the firm of Krupp in accordance with transfer orders, leased an enterprise in occupied territory and managed it as its leaseholders. Spoliation is already established as a fact, if work was carried out in this enterprise.

The fact that Krupp left the leased enterprise has also been regarded as spoliation. The prosecution considers irrelevant, whether the firm of Krupp—as in the case of ELMAG in Alsace—

[1] Reich Law Gazette, p. 839 *ff*.

[2] United States *vs*. Josef Altstoetter, et al., Case 3, judgment, vol. III.

carried along all the machines of its Essen automobile factory; or whether it—as happened in the case of Sartana in the Ukraine—accepting a credit from the German Reich—brought millions worth of its own machinery on to the workshops evacuated by the Russians. It also seems irrelevant, whether the management of these factories and investments in the occupied territories created a possibility for economic existence for its population and also, whether this industrial activity would restore or maintain economic life, disrupted by war.

PRESIDING JUDGE ANDERSON: Let me interrupt you for a moment. The recess time is here. May I inquire how long it would take you to finish, to see whether we shall go on?

DR. SIEMERS: Your Honor, I believe I need 10 to 15 minutes.

PRESIDING JUDGE ANDERSON: Well, I think we can finish. It is a question of whether the sound track will run that long. I think it will. All right, proceed then.

DR. SIEMERS: Thank you, Mr. President.

With remarkable ease the charge of spoliation has also been extended to the disposing of objects, which have never been the property of foreigners, or which in accordance with measures taken by the Wehrmacht or other authorities had long since been confiscated from foreign owners. The prosecution has disregarded and not mentioned the fact, that in all these cases the firm of Krupp has established through *contracts* and *agreements* as *legal a basis as* possible. It has been alleged, without presenting the proper evidence, that it was a case of shady business deals and manipulations, which constitute a violation of the Hague Convention.

It is extremely difficult, to define clearly on the basis of the Hague Convention what the occupation powers may or may not do. This difficulty has presented itself already in the Flick trial and gave rise to numerous arguments and finally led to the clear-cut assertion in the verdict, that the activity of an industrial trustee or lease holders cannot be regarded as spoliation. Unfortunately the prosecution has in no way paid attention to this verdict.

Another difficulty is caused by the fact that it seems impossible to apply literally the rulings of the Hague Convention on land warfare of the year 1907. Every law, even international law, is dependent upon historical development, which can bring extension or restriction. Consequently, the *International Military Tribunal* said, as quoted with regard to international law:* "This law is not static, but by continual adaptation follows the needs of a changing world."

* Trial of the Major War Criminals, *op. cit. supra*, vol. I, p. 221.

And the same applies when the *American Military Tribunal IV* stated in the Flick judgment:[1]

> "The purpose of the Hague Convention, as disclosed in the preamble of Chapter II, was 'to revise the general laws and customs of war, either with a view to defining them with greater precision or to confine them within such limits as would mitigate their severity so far as possible.' It is also stated that 'these provisions, the wording of which has been inspired by a desire to diminish the evils of war, as far as military requirements will permit, are intended to serve as a general rule of conduct for the belligerents in their mutual relations and in their relations with the inhabitants.' This explains the generality of the provisions. They were written in a day when armies traveled on foot, in horse-drawn vehicles and on railroad trains; the automobile was in its Ford Model-T stage. Use of airplane as an instrument of war was merely a dream. The atomic bomb was beyond the realms of imagination. Concentration of industry into huge organizations transcending national boundaries had barely begun. Blockades were the principal means of 'economic warfare.' 'Total warfare' only became a reality in the recent conflict. These developments make plain the necessity of appraising the conduct of defendants with relation to the circumstances and conditions of their environment. Guilt, or the extent thereof, may not be determined theoretically or abstractly. Reasonable and practical standards must be applied."

Thus, the Hague Convention on land warfare can only be applied by analogy. However, if in agreement with the prosecution, the Hague Convention is to be literally applied, then the numerous bombing attacks by the Allied air forces are obviously definite war crimes, for *Article 25* of the Hague Convention states,[2] "The attack or bombardment, by whatever means, of towns, villages, dwellings, or buildings which are undefended is prohibited."

I am leaving it to the prosecution to decide whether they will draw these inevitable conclusions.

The case of spoliation is far more complicated than that of air warfare. For here it concerns a structure of economy which has undergone an essential change since three decades ago in 1907. It concerns the fact that both World Wars were of an economic nature, which had the result that the *economic requirements could no longer be separated from military requirements,* contrary to

[1] United States *vs.* Friedrich Flick, et al., Case 5, judgment, vol. VI.

[2] Annex to Hague Convention IV, 18 October 1907, *op. cit. supra,* Article 25, p. 25.

the experience upon which the Hague Convention is based, and which, nevertheless, owing to the wars of the past century is only aware of the "military requirements." It was only due to the economic war that the industrial enterprises of the belligerent states were drawn into the war solely because of the economic war and consequently involved in the "military requirements," to which the Hague Convention refers. In this connection, consideration must be given to the fact that the economic war originated from the blockade of Germany, which was carried on in World War I by the Allies, the fact must also be considered that for the first time in the year 1916, private property was expropriated during the war, namely, by the Allies. I would like to quote the English legal expert Sir Thomas Barclay, who wrote in [Fortnightly Review] October 1922 the following (*Eberhardt 809, Def. Ex. 2918*):

> "Already in January 1916, the British Government was the first to be guilty of liquidating certain enemy interests * * *. The result of this was that in the majority of cases, private property was expropriated without indemnification, and in others in lieu of merely a nominal indemnification. Our own government, the first to be guilty of this crime, must now therefore be the first to face the task arising from this fact.
>
> "Actually it seems as if we have reverted to prehistoric conditions, to the communism of primitive tribes, and at any rate returned to that kind of brigandage by the state, which, in spite of the efforts of a Grotius to introduce a certain moral standard with regard to the relations among nations, has continued into our times."

In the light of these facts I still wish to refer to another which has always caused the prosecution to submit a form of reasoning which is without legal basis. In the indictment the prosecution refers to Articles 45–56 of the Hague Convention with regard to spoliation. Here, as in the other economic trials, they intentionally forget *Article 43*. It is just this article which is of particular significance. It reads as follows:*

> "The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country."

However, public order and life in an occupied territory may only be rehabilitated or maintained if the *economy of the country*

* Ibid., Article 43, p. 31.

is functioning. This regulation as set forth in the Hague Convention therefore gives the occupying power the right and the duty to take over the economic enterprises of the country, and to administrate the country under suitable economic conditions. This fact becomes all the more clear, if one considers the example set by the numerous industrial plants which, owing to the war have either been deserted by the owners or brought to a standstill. It seems inconsistent that the principle laid down in Article 43, frequently overlaps those set forth in Articles 52 and 53. For the prosecution desires to define the ban of taking an interest in an economic enterprise, while Article 43 to which the prosecution paid no attention, contains the obligation and thus the justification to intervene in the economic life of a country. It is evident that it is not easy to find the correct limitations, and it is even more evident how critical it is to demand that a private industrialist recognize and decide upon the limitations of these principles.

The events in Germany after the end of World War II prove how difficult it is to recognize these limitations correctly. In the course of the trial, or rather in my closing brief, I shall show that no doubt exists that the Hague Convention should be applied in occupied Germany, even though General Clay as a nonlawyer and General Taylor as a lawyer are of a different opinion. But that which has occurred in Europe since May 1945 contradicts the Hague Convention, and even if the latter is not interpreted so literally and inflexibly as the prosecution desires. In the guiding principles for the Combined Chiefs of Staff for General Dwight D. Eisenhower (JCS 1067) issued in April 1945 the following ruling is made:

> "No step to be taken towards economic rehabilitation, nor that which might be intended to *maintain and strengthen the German economy.*" [Emphasis supplied.]

This clear instruction for the administration of the occupied German territories likewise presents an obvious violation of Article 43 of the Hague Convention just cited. The development in Germany, and I shall prove this, indicates exactly the same factor, that is to say, the violation of Article 43 and of Articles 46–56 of the Hague Convention. *Hundreds of factories were dismantled, machines removed,* regardless whether they are essential for the maintaining of the German peace economy or not. Vast numbers of patents, inventions, and manufacturing processes were taken away, and all this occurred without any approval or the indemnification of the owner.

During the same 3 years in which these events occurred, the American prosecution charged leading German industrialists with having spoliated the occupied territories during the war, although the prosecution was quite aware that the actions of German industrialists in the occupied territories cannot be compared both in kind and extent with the actions in occupied Germany.

At the present time I do not wish to say anything with reference to the personality of my client Karl Eberhardt. The Tribunal will be able to form a judgment itself during the trial, and will realize that he is a man who did his duty, and can in no way be compared to a criminal, which the prosecution wishes to make of him and the other persons of the Krupp firm. According to the statements of the prosecution he is not incriminated with any matters which lay outside the sphere of his activity in the firm Krupp. Whether, however, he committed criminal acts within the sphere of his activity in Krupp, will be shown by the presentation of evidence. At the moment I only wish to quote a sentence uttered by the prosecution, which at the beginning of the opening statement said: "Today the name 'Krupp' is freighted with associations and preconceptions."

I am afraid the prosecution belongs to that circle of people who are victims of such preconceptions loyal to their principles, namely, to see a criminal in every German industrialist just because fate made him a German industrialist, who both before and during the war fulfilled his duty.

J. Opening Statement for the Defendant Korschan*

DR. WANDSCHNEIDER: I now read the opening statement for my client, Dr. Korschan.

The charges made on the basis of Control Council Law No. 10 consist of two groups of offenses which vary according to their significance and order of importance. Counts one and four form the starting point and nucleus of the indictment; that is to say, the participation in a common conspiracy for the commission of crimes against peace and the direct participation in these crimes, that is, in aggressive wars. The most encompassing charge is that of a common conspiracy which, according to the indictment, comprises all other counts, one, two, and three. The war crimes against humanity which have been charged in the indictment are designated as means for a purpose, that purpose being "to support Germany in the conduct, preparation, and institution of further aggressive wars" (*German Tr. p. 30*), and they only

* Opening statement is recorded in mimeographed transcript, 23 March 1948, pp. 4816–4821.

form "a part of the said planning on conspiracy" (*German Tr. p. 51*) ; this means that they are incorporated in the all-comprising conception of conspiracy for the commission of crimes against peace.

It is evident that the two afore-mentioned groups of offenses are on different levels as far as their nature is concerned. The field outlined by the indictment includes anything from the responsibility of individuals for world shattering developments and decisions, as are expressed in the charge concerning the unleashing of aggressive wars and the conspiracy aiming at such wars, a charge which has been legally sanctioned for the first time by the IMT, up to the traditional charges in connection with the alleged war crimes and crimes against humanity, which in the main, may be judged without difficulty even on the basis of the civilized nations' traditional conceptions of penal law. The above discrimination is necessary, because the fact that a small number of industrialists have been picked from a score of persons in equal or similar positions and have been connected from the point of view of penal law, with the alleged criminal instigation of political developments and world shattering events of historical importance, requires a specially careful examination of the conception of criminal responsibility, as far as the facts, the causation, the state of mind, and the actual guilt are concerned. In this connection it will be necessary to describe the course of political events before and during the war in their actual significance and simultaneously to outline the personal, and in particular the professional career of the defendant, in this case Dr. Korschan, during the periods in question. This exposition will show that it will not be possible to maintain the charges made against Dr. Korschan of participation in a conspiracy for the waging of aggressive wars or, going even further, of direct participation in those wars, or to prove that he has committed war crimes and crimes against humanity, without shattering the foundations of the basic conception of individual criminal responsibility.

In his capacity of chairman of the Vorstand of the Bertha Works at Markstaedt, Dr. Korschan is mainly charged with having committed war crimes and crimes against humanity by a compulsory employment of foreign labor, concentration camp inmates, prisoners of war, and other groups of workers, as well as by his unhuman treatment of those workers. In this connection it will be necessary, by starting out from the crux of the matter, that is, the unquestionable autocratic power which the State and Party exercised over the industry within the National Socialist State, to show up the decisive responsibility of the governmental,

military, and Party agencies for the employment of labor, as well as for production as a whole. Furthermore, the way in which Dr. Korschan's powers during his time at Markstaedt were being more and more restricted right from the start will be shown, as well as the things he did within the framework of the powers left to him in order to improve working conditions at the Berthawerk as far as he could, and to secure an existence worthy of human beings for the entire staff, as far as the war conditions of that time permitted. The evidence of the defense will show that Dr. Korschan was not a pliable tool without a will of his own in the service of a slave labor program.

It is pointed out in this connection that the undersigned has undertaken the task, on behalf of the defense as whole, of dealing with the fundamental question of employment of concentration camp inmates within the framework of German industry, before going over to his own particular sector of the defense.

As regards the assertion of the prosecution that Dr. Korschan was the manager or trustee of the eastern plants on behalf of the firm of Krupp, evidence will be submitted to the effect that such a measure which had been planned was not realized, and that the plants evacuated to the East continued to remain subordinated to the original directorate at Essen. As far as the prosecution, when making this assertion, should have in mind Krupp's sponsorship of certain plants in the Ukraine, it will be necessary to expound the actual and legal connection between the German Reich and the Berghuette Ost (BHO) on one hand, and between the BHO and the firm of Krupp on the other hand (sponsorship relations). It will be proved that Dr. Korschan was in no way entrusted with the plant management of the factories situated in the Ukraine. Furthermore, it will have to be shown that in many cases he was not even employed in his intended capacity of intermediary between the plant managements of the Ukrainian factories concerned and the firm Krupp. Quite apart from the fact that Dr. Korschan was not responsible for the plants in the Ukraine, the condition in which those plants were found will be shown, as well as the effects of their being taken over by the Germans, and the extent to which machines and equipment of a similar nature were dismantled when these works were evacuated in 1943. In this connection the question of responsibility for the military measures taken in the course of the carrying-out of the evacuation will have to be specially discussed.

This case is to be judged on the basis of the legal standards laid down in Control Council Law No. 10. It cannot and should not be in the interest of the defense to conduct such a trial by

means of feeble glossings over of the facts or by means of legal hairsplitting. The intention of the United States of America, when conducting the Nuernberg trials is to promote the ethical ideal of restitution of a true state of law. The German defense admit frankly that the leaders of the National Socialist Reich presumptuously provoked fate and brought immeasurable misery to their own people as well as to foreign peoples. This conclusion remains valid, even if a future encompassing historical evaluation of the years which we have passed through should disclose further causes in connection with the responsibility for this catastrophe. There will always be a policy which does not accord with the principles of morals and ethics. But there is an inalienable human dignity, to which all institutions of law and state will have to bow if they do not want to nullify their own purpose. Only on the basis of this realization will it be possible in future for us Germans to find among the turmoil and the chaos of the present times a clear path, equally free from hatred and resentment as from inferiority complexes, and openly to acknowledge the wrong, also on behalf of our own people, the effects of which we see daily in the misery of millions of German fugitives and starving masses. Hitler and a restricted circle of his confidants were guilty of a cynical contempt of the human individual and of their own people. They were the persons who were responsible for instigating a policy which led to catastrophe. It is impossible to place a man like Dr. Korschan who, as innumerable other Germans like him, was simply swept away by an overpowering tidal wave, in the same street as these persons.

Law, and international law in particular, is an expression of the times that produce it. The powers that signed the Control Council Law No. 10 accuse each other of all the crimes which form the subject of this trial, starting from the enslavement of masses and the spoliation of occupied territories up to the preparation of an aggressive war. Who is "right," and what is "right"? In this connection not only the question of the formal validity of Control Council Law No. 10 will have to be examined, but also the question whether the penal provisions contained in it constitute binding substantive law. There is open anarchy within the legal community and legal system formed by the powers that signed the Control Council Law No. 10. The course of world politics today is not directed by considerations of law, still less of international law, but by power policies on a tremendous scale which face each other within the confined area of Germany. No German, be he in the eastern zone or in the western zones, can take up a position in which he will be safe—however he may behave—from the most severe criminal charges, according to the contra-

dictory attitudes adopted by the Control Council powers. There is the tremendous danger that in spite of the formal and apparent maintenance of the principle of individual criminal responsibility, such responsibility may actually be established merely on the basis of the fact that a person adheres to a certain "system," and that thus penal justice may be faced with a task in which in view of its essence it must necessarily fail. The more powerful and contradictory the political ideologies are, on which the world powers opposing each other in Germany base their administration of justice, the greater is the danger of responsibility being based on the fact that a person belongs to a certain "group" or "system" designated by these ideologies, and the more impossible is the task of establishing criminal discriminations merely on account of a tragic connection with world development of historical importance which can only be judged by the future course of history.

K. Opening Statement for the Defendant von Buelow*

DR. POHLE: Your Honors. In the opening statements reference is made more than once to the fact that the defense intends to deal first of all with the arguments connected with count one, preparation for and participation in aggressive war. That part of the argument which I have undertaken to deal with can be summed up in the concept, support given to the National Socialist Party by industry and the firm of Krupp before and after the seizure of power. This does not mean that my client, Friedrich von Buelow, had any special part in the relations between the National Socialist Party and the firm of Krupp, between national socialism and industry. He played neither a greater nor a smaller part in shaping or not shaping these connections than did any of the other defendants here before you. Maybe the prosecution deduces that such connections did exist from the fact that some of the defendants sat on committees and other bodies of industrial groups or associations which the prosecution thinks fit to regard as typically National Socialist organizations. Friedrich von Buelow, too, was a member of a small number of committees of a district group, a district subdivision of the Economic Group Iron Producing Industry. He was only one among the many representatives from other industries, and his main task consisted in arranging the meetings, and, to some extent in the exchange of experimental data with the other representatives. The prosecution describes this activity as extremely risky,

* Opening statement is recorded in mimeographed transcript, 23 March 1948, pp. 4821–4836.

without even attempting to adduce any proof of the risk he ran by attending these meetings and discussions.

The exposition of these relations between industry and Party which I have undertaken to make hardly concerns any of the defendants. It could confidently have been left to historical research to adduce the facts; and the necessity of burdening this trial could thus have been avoided.

The program of the Nazi Party, so the prosecution claims, coincided with the endeavors of the firm of Krupp to build up again a mighty Germany, with Krupp as the focal point of the armaments industry. The main points of that program are alleged to have been reprehensible. In this connection the prosecution choose to attack above all the doctrine of "living space" although that word does not occur in the Party program, but they pass over in silence the fact that points one and two of the Party program postulate self-determination and equal rights for all nations, postulates which had figured prominently during the First World War in the 14 Points of President Wilson. In its stead the prosecution mentions as a special point in the program of the NSDAP, a statement which I have been unable to discover therein to the effect that war was a noble and necessary activity of Germans, and goes on to state that "the name, prestige, and financial support of Krupp was used to bring the NSDAP into power over Germany and to put into effect its announced program." *

This statement of the prosecution represents a certain advance compared with the allegations made in earlier industrial trials. In other trials the prosecution went so far as to claim—I quote from various of the indictments—"Krupp, Flick, Thyssen, and a few others had persuaded the industrialists in 1933 to support them; Beck, Fritsch, Rundstedt, and other typical militarists dominated the military clique. Supported by these groups Hitler seized power, and having seized power he embarked on conquest." In this trial the prosecution have refrained from invoking that unholy trinity, because, apparently, they were incapable of taking it seriously themselves. Small wonder, since they made the fatal mistake of conjuring up as Mephistophelean powers, apart from the naughty industrialists, the Generals Beck and Freiherr von Fritsch, who were alleged to have put Hitler in the saddle. The prosecution should have known then, and do, it may be surmised, know today, that Beck was cold shouldered as a staunch opponent of Hitlerism long before the war broke out and that he was shot on 20 July, and that Fritsch who had become involved in the disgusting machinations directed against him by

* Indictment, p. 12.

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certain National Socialist leaders, was dismissed from his post and found the death he sought at the beginning of the war.

Thus, the prosecution no longer insist in this trial on the alleged collusion of these infernal powers: industry, the army, and the Party, as far, at any rate, as the seizure of power by the NSDAP is concerned; they no longer insist on conjuring up the spirit of militarism. They are content with stating quite simply, that Gustav Krupp von Bohlen und Halbach and the German industry with him enabled Hitler to seize power. In proof of that statement the prosecution have in the main adduced the following four events:

Hitler's speech in the Industrie Club at Duesseldorf 17 January 1932; the discussion between Papen and Hitler in the house of the banker Freiherr von Schroeder in Cologne on 4 January 1933; Hitler's speech to the industrialists on 20 February 1933 prior to the Reichstag elections in March 1933; and finally, the Enabling Act of 24 March 1933.

I shall discuss these four events in detail in the course of my presentation of evidence, but I should like at this point to make the following general statements:

The speech in the Duesseldorf Industrie Club was anything but a success for Hitler with the liberal circles of western industry, skeptical as they were. Liberalism and broadmindedness, progress and the common weal had been the motto of the men from Rhine and Ruhr ever since—to mention but a few, Friedrich Grillo, Alfred Krupp, Adolf von Hansemann and, last but not least, the Irishman Thomas Mulvany had laid the foundations of the industrial development of the Ruhr district. Thus, the descendants of these men received Hitler's vociferation at Duesseldorf with distaste and reserve. Even had it been a success it is hard to see what part the directors of the firm of Krupp who now stand accused could possibly have played in making it so. Gustav Krupp von Bohlen und Halbach was not present when Hitler made his speech in the Duesseldorf Industrie Club in January 1932.

The subjects of discussion between Hitler and Papen in the house of the banker Freiherr von Schroeder at Cologne on 4 January 1933 were undoubtedly very interesting and of great national political importance to the development of Germany and the world. The witness Freiherr von Schroeder described the intensely interesting encounter to us under cross-examination. He added, however, at the same time, that he had absolutely no contact with Krupp. Of what the part played by the Krupp firm in this discussion consisted, thus remains yet another riddle which the prosecution have not solved.

Gustav Krupp von Bohlen und Halbach, as president of the Reichsverband der deutschen Industrie, on the other hand, was present in the palace of the Reichstag president on 20 February 1933 when Hitler made his speech, when Goering issued his appeal for financial support for the March elections, and when Schacht collected the election funds. The prosecution has quoted parts of Hitler's speech in order to show that the industrialists had recognized and approved Hitler's allegedly treasonable intentions. I propose to answer this by merely quoting other passages from Hitler's speech, which will cast an entirely different light on the political situation at the time. I quote (*D–203, Pros. Ex. 187*) :*

> "We are thus faced with the following situation: Weimar has imposed upon us a certain constitution, thereby establishing the country on a democratic basis. With this constitution, however, we have been granted no effective governmental authority. On the contrary, as I stated in my criticism of democracy at the beginning of my speech, it was inevitable that communism should penetrate further and further into the German people. The result was an ever growing tension, of which even the courts of justice—and this is the worst aspect—did not escape the influence. Thus, two fronts grew up, facing us with a choice, either marxism in quintessence or the other side * * *.
>
> "* * * I still have one wish for industry, namely that, alongside with internal development, a peaceful future may await it * * *. Internal stability can be ours only after marxism has been dealt with. This is the decision which we must face, be the fight ever so fierce."

And from Goering's speech, I quote:

> "He also counts on the fact that, with political tranquillity, economy would achieve stability too. Experiments were not to be the order of the day. In order to reach the goal, however, it would be necessary to muster all our forces on 5 March. Above all, it was important to penetrate even those circles which were still in the toils of marxism and which were vegetating listlessly in a slough of sullen despair * * *."

Was it any wonder, is it so extraordinary, does it, in fact, constitute high treason, that, in the face of such statements, the industrialists assembled in Berlin promised to provide certain sums of money for the election campaign? Is not the fact that they expressly specified at the time that the funds provided

* Reproduced in part in section VI B 2.

should benefit not only the NSDAP but also the Deutschnationalen [German National Party] and even the Deutsche Volkspartei [German People's Party] rather indicative throughout of a certain spirit of resistance? And did not the liberal views of Mr. Schacht provide the industrial leaders with a guarantee of normal and peaceful development?

For it was in such development—and not in the hazards of war—that the owners of industrial enterprises in Germany and particularly the major Rhine and Ruhr companies, saw their opportunities. Its collaboration of decades' standing with French, British, and Belgian industrialists and business contacts abroad, its activity in international associations, its far flung markets abroad, all these were factors which rendered a peaceful development absolutely necessary to industry, and which must of necessity have made war appear to threaten the very existence of their plants.

The so-called Ermaechtigungsgesetz [Enabling Act] of 24 March 1933 was in no way at variance with these considerations. It is entitled the "Law for the Elimination of the Distress of People and Reich," it authorized the Reich government to make certain laws and was valid until 1 April 1937. Its issue was not recognizably connected with Hitler's speech of 20 February 1933. Although the prosecution would have us believe this, they remain without any proof of the fact that it was, in fact, industry which inspired this law. The draft law was introduced by the Reichstag parliamentary faction of the NSDAP. Not only did the small bourgeois parties of the Center vote for the law, in addition to the NSDAP, but also the closed block of the Centrum Party, which certainly did not contribute to the election funds provided by industry. At the division during the meeting of the Reichstag on 23 March 1933, 441 votes were recorded for the law and only 94 against.

It is scarcely astonishing that the prosecution has not attempted to explain the fact that more than 37 percent of the electorate had already voted for national socialism in 1932, for the conception of national socialism as a mass movement of the petit bourgeois and workers would not fit into that historical perspective which the prosecution seeks to conjure up in the face of the events of the time, in order to find—in accordance with the basic principles underlying these trials—some sort of moral justification for the punishment of individual industrialists on the grounds of illicit preparation and conduct of wars of aggression. A serious attempt to defend the theory that a mass movement could be launched and maintained by a few hundred thousand marks, or that its existence could be jeopardized by the withholding of

such funds, would imply complete misunderstanding of the immense psychological forces involved in a rising of the masses. The irresistible onward sweep of history, the rise and fall of party political and national strongholds and the mysterious effects of demagogy cannot be explained by such formulae, which in themselves contradict the laws of mass psychology. Nevertheless, it is necessary to go into this theory propounded by the prosecution. For the prosecution seem to attach great importance to the contributions made by industry and by the Krupp firm to the Nazi Party and its branch organizations. The fact that the Krupp firm and its directors contributed a few hundred or thousand marks to the promotion of the National Socialist Public Welfare Organization, the fund for the care of war victims and the erection of a memorial hall, appears, to the prosecution, to be indicative of inveterate villainy. I shall prove by means of figures what a minute fraction of the various expenses involved was represented by the contributions made by the Krupp firm and its directors to the Party and its branch organizations. Besides, the actual amounts contributed by Krupp were not voluntary payments but rather levies resembling taxes. Even the trifling so-called voluntary contributions that remained, could not be considered non-obligatory by anybody in a totalitarian one-party state, least of all by a large firm. For the most part, in any case, they were used for social, sport, and charitable aims, in keeping with the firm's old principle of guarding and developing its social political tradition.

When presenting its evidence, the prosecution devotes considerable space to the change-over from the Reich Federation of German industry to the organizational forms of the German Reich. This from their point of view may be logical, but it has no recognizable connection with the defendants. They are obviously trying to pin this development on to Mr. Gustav Krupp von Bohlen und Halbach. I, however, shall bring forward proof to show that events took place in an absolutely different manner, and that Gustav Krupp von Bohlen und Halbach in particular cannot be reproached for having delivered German industry over hastily into the hands of national socialism. Such a cautious and righteously thinking man as Gustav Krupp does not make hasty decisions unless they are born of necessity and the enormous pressure exerted by the dynamic powers of Party and State on the economy as early as 1933. This pressure went on increasing until the open—and worse still—the secret terror in the dictator state imposed its will on every free thinking man and necessarily made him become outwardly a silent supporter of National Socialist doctrine, just through avoiding the greatest

disadvantages of the law for himself and his family, and immediate danger to his life! Economic dictatorship, state dictatorship, and—overshadowing both of them—total dictatorship by the Party were the pillars that upheld National Socialist domination. This can only be fully comprehended by someone who was forced to live under National Socialist dictatorship.

In connection with the subject "war of aggression" I next have to deal with the prosecution's assertion that German heavy industry together with Krupp-made Nazi propaganda had conducted espionage abroad by means of their foreign agencies, foreign connections, and firms with which they were on friendly terms, and that no other than German industry itself, organized the fifth column abroad. It is true that the prosecution has produced very weighty material in support of this contention. It has tried to prove in fact that the firm of Krupp sent abroad a total of 300 pamphlets during the 12 years of national socialism. Unfortunately the prosecution has overlooked the fact that as these pamphlets were first sent to neutral countries during the war, they have nothing to do with the preparation of wars of aggression. On the other hand any child knows that since the days of the First World War, next to the war of arms and the economic war, the propaganda war has become the deciding factor. No one will be able to reproach a warring power for broadcasting by means of its radio system and newspapers definite or even untrue news, with the object of gaining moral support for its conduct of the war. Should it not be then entirely in order to send white papers, documents, and speeches to neutral countries?

With these observations, Your Honors, I will close the general opening remarks of my speech on the subject of wars of aggression, and will now turn to the principles on which I intend to conduct the individual defense of the defendant Friedrich von Buelow.

On the question of the defense with regard to count two of the indictment, the so-called spoliation, I shall confine myself to a few words. Dr. Siemers has the onus of dealing with this point; insofar as any charges may be made by the prosecution against the defendant Friedrich von Buelow in this connection, I shall refer to them when speaking of my client. It is a pity that the prosecution has not discovered just how my client collaborated in this so-called spoliation. So long as no substantiation of this has been forthcoming, it is practically impossible and also probably hardly desirable to do more than make a few observations on von Buelow's duties within the firm.

As you will have realized from the opening statements already made, the defense has divided up according to certain angles

the subject of the employment of foreign labor and their treatment. It was desirable in view of the speech for the prosecution to classify the so-called slave labor program in which these defendants are supposed to have participated according to certain legal and factual aspects. In order to coordinate and group the enormous amount of material, the defense saw itself obliged to delimit the question of employment and treatment of foreign labor according to function and locality. The next large sections to stand out were the questions of procurement of workers and prisoners of war, their utilization and distribution, in short the employment of foreign labor as such; next comes the question of the treatment of this labor at work and otherwise in Germany. A legal reply to the charges raised by the prosecution in this connection and an inquiry into the facts of Control Council Law No. 10 in connection with the decisions reached in the Flick judgment will have to be left to a later part of the procedure.

The conduct of the first section—employment of foreign labor—will be divided between Attorney Kranzbuehler, Dr. Wolf, and Dr. Wandschneider. It will, however, be occasionally necessary in my presentation of the evidence to touch upon this question. In this connection I shall also have to go into the completely insignificant role still played by the industry forming the Economic Group Iron Producing Industry in the period with which we are concerned, that is, from about 1942 onward.

On the other hand, with regard to the second section, the treatment of foreign labor in Germany, I shall reply in detail to the speech for the prosecution. We have also had to subdivide extensively the gigantic complex of this second section and this we have done on the basis of the offices within the framework of the whole held by the defendants whom we individually represent. Thus, the general treatment of foreign workers, its legal underlying principles and the attitude of the Krupp firm to these questions will be dealt with by Attorney Kranzbuehler; the treatment of prisoners of war and the particular circumstances of the Gusstahlfabrik, by Dr. Wolf; the housing in the camps and their conditions, by Dr. Behringer; and finally, the conditions in the Bertha Work, by Dr. Wandschneider.

To me, Your Honors, falls the task of demonstrating the special difficulties which confronted the works in the interests of the maintenance of order, security, and discipline, when, in consequence of government measures and against the will of the industry, great numbers of foreign workers began in 1941 and continued increasingly from 1942 onward to pour into the works. Such tasks had never before arisen in the history of German industry and they had to be mastered at a time when the all

powerful National Socialistic State was demanding from the works a production output never before imagined and the total war from every single German a physical and psychological effort hitherto never even considered possible, and when, moreover, the shadow of a pitiless air war was beginning to stretch over the whole of Germany. Without their will or any contributory act of their own, these defendants, and among them Friedrich von Buelow, were drawn into the vortex of this historical event, for which not any one of the defendants, but the National Socialist State administration, was responsible.

The maintenance of calm, security, and order among such heterogeneous elements, as were represented by the home and foreign workers of a great works in Germany in the war, was an indispensable condition for the maintenance and increase of the production demanded by the State. I will show in my final statement the extent to which the State and the authorities therefore intervened by means of laws, ordinances, and decrees in the maintenance of order, security, and discipline in the works. By regulations of every kind they restricted the freedom of judgment of the undertaking more and more, and finally cut it away altogether. Through a subtle system of secret organizations of security services and police and through the many-branched Party and its numerous affiliations they watched over the carrying out of the dictatorial will of the State in the works. Rebellion against it meant detriment, dismissal, loss of freedom, the concentration camp, or death.

My final statement will show how the men of the Krupp firm endeavored to deal with the entire problem of this system, while maintaining the widest consideration traditional in this firm for the welfare of the people employed in it. This will be the point to which we will devote our attention in considering the activity of the defendant, Friedrich von Buelow, in particular. In this connection, I will describe to the Tribunal the duties of the military and political police Abwehr [counterintelligence] officers and discuss the tasks which the Plant Security Police (Werkschutz), the factory guard (Werkschar) and the Auxiliary Plant Security Police (Erweiterter Werksschutz) of the Krupp firm had to fulfill. We shall have to learn to distinguish clearly between the terms and functions of these various institutions and to put them under minute examination. Only in this way will it be possible to form a clear outline of the sphere of work of each defendant. This again is an indispensable condition for the establishment of criminal responsibility and criminal guilt, and this question of individual criminal responsibility and criminal guilt, and this question only, is the point at issue in this trial.

It will be demonstrated that no criminal system of bad treatment of mishandling of foreign workers, devoid of every humanity, existed in the Krupp firm, just as little as it did in any other German industrial firm. In this connection, we shall have to deal also with the incriminating witnesses of the prosecution, who, like the witness Wirtz, showed the perhaps understandable desire to justify their own deeds by alleged orders of their superiors, only discovered by them afterwards—that witness who thought he could build a whole criminal system on the three words of his superior; "Fahrt mal dazwischen" ("Get them moving!"). And we shall also have to go into the question of the Dechenschule camp, concerning which three men of the Belgian intelligence service have expressed themselves, three not unlikeable but certainly still hate inspired men, who were all three revealed under cross-examination as having been active members of the Belgian resistance movement and not at all as simple labor service resisters or labor contract breakers and who, according to existing rules of war of all civilized nations, could very easily have suffered a different fate.

The prosecution have from time to time industriously and deliberately called up over the head of the defendant, Friedrich von Buelow, a menacing shadow—the Gestapo. With raised finger they point to him as the confidential man of that institution and obviously seek by this indication alone—and a completely distorted one at that—to create feeling against him. Things were not so simple as that, however, in the National Socialist dictator state. It did not follow that anybody who, officially, or by reason of his position in a firm, came into touch with the Gestapo, became thereby, through that alone, their confidential agent, and most certainly not when he was not even a member of this organization, declared as criminal by the International Military Tribunal—neither does the prosecution apparently wish to assert that he was. I will, on the other hand, show in what von Buelow's connections with the Gestapo in reality consisted and in what manner they were used so as to bring the well-being of the firm and the well-being of the people who worked in it into harmony with the maintenance of order in the works, demanded by the State in tempestuous times of war and emergency, and at the same time to satisfy the hard demands of the Moloch State.

In this connection, the judgment on von Buelow as a man will acquire considerable significance. I will show that the character of this man is anything but a criminal one. And I am convinced that, when the evidence is concluded, the Tribunal will agree with me that the picture of this man is very different from that dark portrait which the prosecution have sought to draw for us

by interspersing occasionally the sinister word—Gestapo. Here stands before his judges, a man of unblemished character whose tragedy, like that of the other defendants sitting here with him, lies in the fact that they were born into a time of immense disorders and confusions, whose floods and countercurrents passed over them as objects, as over millions of others.

L. Opening Statement for the Defendant Lehmann*

DR. WOLF: Your Honors. In count three, which in the indictment is listed under the heading "deportation, exploitation and abuse of slave labor" and which is contained in the opening statement of the prosecution under the heading of "deportation, exploitation and ill-treatment of slave workers," all 12 defendants are charged with war crimes and crimes against humanity within the meaning of Article II of Control Council Law No. 10, of which allegedly they made themselves guilty, among other things through "murder or ill-treatment of prisoners of war." The prosecution announced its argumentation to the count with the powerful words, I quote, "the harsh bark of the oppressor and the sharp cry of pain of the individual victim will be heard."

Well, the defense was curious to learn which facts the prosecution would introduce to prove the truth of this mighty announcement, especially in connection with the assignment of prisoners of war by the firm of Krupp. However, during the entire period, covering approximately 3 months, neither harsh barks nor shrill cries of pain were to be heard. The prosecution was satisfied to introduce a fair number of documents of mainly general contents, partly consisting of laws and regulations of government and Wehrmacht agencies, which in their turn have for their better part nothing to do with the assignment of prisoners of war at Krupp's and which for the rest consisted of records concerning discussions within the firm of Krupp or with other government or industrial agencies, furthermore of circulars sent out by the firm and of the firm's correspondence and similar matters. Moreover, the prosecution introduced a number of witnesses, mainly former prisoners of war, foreign workers or concentration camp prisoners who gave witness about their various experiences at Krupp in a more or less unbiased manner. According to the statement of the prosecution, this evidence is to prove that the firm of Krupp endeavored to procure prisoners of war, that prisoners of war at Krupp were engaged in work directly concerned with the war effort, involving dangerous occupations,

* Opening statement is recorded in mimeographed transcript, 23 March 1948, pp. 4838–4843.

that the prisoners of war were inadequately billeted and fed, that the installations for air-raid protection in the camps and in the plants were insufficient, and that individual prisoners were manhandled.

The defense will have to contest in detail the entire evidence introduced by the prosecution. This much, however, can be said even at this early date—In any case, the prosecution did not succeed in bringing proof for its assertion that there existed at Krupp's a slave system, indeed it did not even explain clearly in what way the 12 defendants are to have been connected with the individual incidents, in particular that they knew of them or at least should have known of them, let alone that they tolerated or even sanctioned them.

This indecision on the part of the prosecution, to which the defense referred repeatedly in the course of this trial, brings the defense face to face with the extremely difficult task of objecting on behalf of its clients to charges, whose connection to its clients is not explained, let alone proved. On the other hand, this fact forces the defense to deal with the question of prisoners of war from the very bottom, in as much as it pertains to the assignment of prisoners of war in the German industry, and in particular in the firm of Krupp, so as to all dangers which might arise for the defendants as a result of the unobjective generalization on the part of the prosecution.

I have taken it upon myself to treat the fundamental aspect of the subject, "prisoners of war" within the framework of the general case of the defense. I shall throw light on the questions of international law in this field and I shall treat all basic questions concerning the procurement, billeting, food, hygiene, and medical care, questions of cultural welfare and protection against air raids, of wages, supervision and discipline and of the assignment to the plants. I shall deal at length with the special position into which Russian and French prisoners of war and Italian military internees are placed by virtue of the international law and I shall finally define in detail the limits of competency and responsibility concerning all matters pertaining to the assignment of prisoners of war.

The same principle is being dealt with by Mr. Kranzbuehler with reference to the civilian foreign workers and by Mr. Wandschneider with reference to the concentration camp inmates.

Individual questions concerning the local assignments of prisoners of war to plants I shall treat only inasmuch as they concern the plants of the Essen Gusstahlfabrik (cast steel works). In view of the external connections with similar questions concerning the assignment of prisoners of war I shall, for reasons of

expediency, also deal with all pertinent questions concerning the local assignment to plants of civilian foreign workers and concentration camp inmates. Avoiding all principal issues, I shall restrict myself exclusively to contesting the individual charges made by the prosecution and I shall attempt to present the Tribunal with a true and exhaustive picture of conditions at the Essen Gusstahlfabrik, this oldest and most important enterprise of the firm of Krupp, inasmuch as it was brought into the public eye by the prosecution in connection with the assignment of prisoners of war, civilian foreign workers, and in one case also concentration camp inmates.

I am afraid it will be unavoidable to go into that part of the defense at greater length than would have been necessary, had the argumentation of the prosecution been more precise and to the point.

Dr. Behringer will supplement the discussion of that subject and deal with the questions of camps and food for foreign workers and welfare outside of their place of work. Other gentlemen will discuss the local problems of the other Krupp plants.

I am firmly convinced that in conjunction with my colleague, I shall be able to prove to the Tribunal that in connection with the assignment of prisoners of war and foreign workers, none of these defendants bears any personal guilt which, according to the principles of criminal law of your country and that of all other civilized nations and according to the practice of the Nuernberg Military Tribunals, alone could provide the necessary prerequisite for their conviction.

Up to now I have restricted my remarks to my task of presenting the general case of the defense. If I mention the name of my client, Dr. Heinrich Lehmann, only at the end, this is done so as to draw a clear dividing line—by its mere position on the paper—between the problems under discussion and the person of the defendant Dr. Lehmann, who knows himself free from any guilt. I openly admit that, up to this day, I have not been able to understand why this man, whose position in the firm did not endow him with any executive power, should be in the dock as a defendant, as the only one—apart from his codefendant Kupke—out of the number of his numerous colleagues in identical or similar positions. In all the Nuernberg trials up to now only such persons were indicted who either were personally charged with a serious crime or who, owing to their special position within the State, the army, the Party, or industry were held responsible for certain conditions or incidents, which constituted crimes according to the definitions of Control Council Law No. 10. As the defendant Dr. Lehmann is not even alleged to have personally committed

any crimes, we are, in this case near the conclusion of the Nuernberg Trials as such, faced with the first and unique instance of an employee of a private firm in a subordinate position being held responsible to the same extent as the members of the management for such alleged conditions and incidents in the firm. I am firmly convinced that the Tribunal will take this extraordinary fact into account.

In as far as Dr. Lehmann was mentioned in connection with the counts of the indictment, namely number one (planning, preparation, initiation, and waging of wars of aggression) and number four (participation in a common plan and conspiracy), I think I do not have to waste any words on the defense, as the prosecution has not even produced the slightest trace of evidence that defendant Dr. Lehmann had anything to do with these matters. He entered employment at the firm of Krupp in 1940, later than all other defendants. I am confident that the Tribunal will not hold responsible an employee in a nonexecutive position, of an administrative department of a branch of a private industrial enterprise for alleged crimes of which, in the trial against the main war criminals before the IMT, 14 out of 22 defendants were acquitted, all of them being highest officials of the State, the Wehrmacht, Party, and industry, including Funk, Schacht, Doenitz, Bormann, von Papen, Speer, and Sauckel.

If at this juncture I do not formally move on behalf of defendant Lehmann that proceedings be discontinued at least under counts one and four, it is only because a motion of such a nature has already been submitted by the entire defense on behalf of all defendants.

I believe, therefore, that in stating the defense of defendant Lehmann I may restrict myself to refuting the prosecution statement that Dr. Lehmann had any decisive influence in the procurement, treatment, and assignment of prisoners of war, foreign workers, and concentration camp prisoners in the plant of the Gusstahlfabrik at Essen. For the rest, I shall deal briefly with Dr. Lehmann's career and his position in the firm of Krupp. With the help of a minimum of evidence, I shall establish his blameless character and convince the Tribunal that no guilt is attached to this defendant.

M. Opening Statement for the Defendant Kupke*

DR. BEHRINGER: Your Honors. In its indictment the prosecution charges my client, Mr. Hans Kupke, with having committed

* Opening statement is recorded in mimeographed transcript, 23 March 1948, pp. 4843–4848.

crimes against peace, war crimes, crimes against humanity, and with participation in a common plan or conspiracy for the commission of these crimes, as defined in Control Council Law No. 10.

Kupke's name is mentioned only once in the indictment itself, that is when he is excluded from the charges of spoliation and robbery under count two. Kupke's name is not mentioned in connection with counts one, three, and four of the indictment.

At the end of the indictment there is a supplement concerning each individual defendant. Kupke's former activities are mentioned; it is stated that he joined Krupp in 1938 and a list of his positions follows.

According to the indictment, therefore, the only period of my client's life which is of interest in these proceedings is the period of his employment in Krupp.

As far as the actual facts are concerned, the prosecution in its presentation of evidence only dealt with my client's activities as chief of the office Oberlagerfuehrung (foreign workers' camp administration).

The prosecution has not even attempted to prove that my client was guilty under counts one and four of the indictment during the period 1938 to April 1943, at which time he took over the office Oberlagerfuehrung.

For this reason I have requested that the proceedings with regard to counts one and four of the indictment against the defendant Kupke be stopped. I take the liberty of referring to the motions of 11 and 15 March 1948 submitted by the entire defense.

The focal point of the defense is therefore the refutation of the prosecution evidence concerning count three. With regard to counts one and four of the indictment I reserve the right to submit evidence.

In its opening statement of 8 December 1947 the prosecution emphasized that Kupke was one of the less important employees of the firm Krupp. This statement was stressed by the prosecution in that in the chart of "Date of Entry of Defendants into Krupp and High Positions" which it submitted and which was exhibited in the courtroom, the box with Kupke's name was the only one of all the 12 which was not shaded but was left white. This also shows that the rank of my client as "Gruppenvorstand" did not imply membership in the Vorstand of the firm Krupp, that is, the administrative body of the enterprise.

According to the indictment itself, the opening statement of 8 December 1947, and the evidence submitted by the prosecution, my client, in his capacity as chief of the office Oberlagerfuehrung since 1943, is supposed to have been guilty of crimes enumerated in Control Council Law No. 10.

I will deal with this question from the point of view of the principles and of the facts.

The principles will be discussed extensively during the defense of the other defendants. The defense of my client will therefore be limited to any supplementation which may be required.

With regard to the facts, my defense of my client will start from his position and his activities as chief of the Oberlagerfuehrung, insofar as he was in charge of living conditions of the foreign workers as far as quarters were concerned.

I have to agree here with the prosecution's statement that the sphere of activity of my client extended only to the Krupp camps in the Essen area.

The plant of the case iron factory at Essen did not in principle come under the charge of the office Oberlagerfuehrung, since those camps were established and managed by the individual plants.

In order to describe the nature and extent of the activities and thus of the responsibility of my client, I will first discuss what was the official date on which Kupke was appointed by the Vorstand of the firm Krupp to take over the camps for foreigners, what were his tasks, what organization for the execution of these tasks existed at the time of his taking over and what new organizations were created by him.

The living conditions in the camps were to a very large extent dependent upon the relevant laws, regulations, and other directives. In this respect the defense will prove, by submitting legal ordinances and other documentary evidence, that a number of state and municipal authorities, Party agencies, agencies of Party affiliations, and organizations as well as agencies of the Wehrmacht, had a decisive influence on this matter.

In addition to this, I shall prove that the firm of Krupp and thus Kupke were not in principle responsible for living conditions in the prisoner of war camps, in the labor training camps of Dechenschule-Neerfeldschule and the Humboldtstrasse concentration camp.

In connection with this I shall discuss the question of the rights and duties of the camp leaders with regard to maintaining peace, order, and security; whether they had any right to mete out punishment and, if so, to what extent; and what their duties were vis-a-vis the security agencies, like the office of the public prosecutor, the criminal police and the Secret State Police.

Here too, I shall prove that my client was not in charge of the Abwehr [counterintelligence] for the office Oberlagerfuehrung.

The sphere of activity assigned to my client included first of all the organization of the quarters which were planned and built by

Krupp according to State directives. In this connection I shall prove that Krupp and my client Kupke, within the scope of this duties, did not only fulfill the basic requirements, but in addition did some excellent work.

In as much as such camps were placed under the supervision of the German Wehrmacht (Stalag), of the Gestapo, and of the SS, evidence will prove that as soon as those camps were turned over to offices which had no connection with Krupp the responsibility of that firm ceased.

A further task of the office Oberlagerfuehrung was to supply the camps with food. I shall prove that the nature and the extent of the food rations were prescribed by the state that, the prescribed rations were furnished, but that in addition to this not only Krupp but also the office Oberlagerfuehrung and Kupke personally did everything to provide additional foodstuffs. I will especially furnish proof that, with regard to the problem of food, everything humanly possible had been done or attempted by Krupp to provide the best possible supply and distribution even before my client took over his work in 1943.

After the air raid in October 1944 when local supplies were disrupted, Krupp for instance, immediately had bread brought from the vicinity of Leipzig, meat from Cologne and Osnabrueck, vegetables and potatoes from the Lower Rhine and from Hanover.

With regard to clothing, I shall investigate whether and to what extent Krupp was responsible for procuring clothing and what had actually been achieved in this respect.

The problem of medical care plays an important role in the presentation of the case of the prosecution as well as the problem of the supply of drugs and of sanitary equipment. Here too, the evidence will prove clearly that neither the office Oberlagerfuehrung nor Krupp was responsible or competent for the prisoner of war camps, the labor training camps, and the Humboldtstrasse concentration camp; in all the other camps for which Krupp was responsible, the duties arising from these tasks were performed to the full extent.

Finally, the evidence for the defendant Kupke will also show how life in the camps for foreign workers subordinate to the office Oberlagerfuehrung actually was. It will be thus shown that in all other questions concerning the care of these foreign workers, such as, vacations, communication with their homes as far as mail and packages were concerned, activities for leisure hours, cultural and sports activities, excursions in the vicinity, all sorts of plans were made and actually carried out.

If, during the course of the war years, there were considerable disturbances and difficulties with regard to life in the camps, the effects of the air raids were of decisive importance, as has already been proved by the evidence so far submitted. It will be proved that the bombing attacks, which increased after 1942 to a considerable extent, finally brought to nothing all plans and superhuman efforts and achievements. This resulted in a time of distress for the German population which became more serious from day to day and which necessarily also affected the life of the foreigners.

During air raids and before the all-clear signal had been given, Kupke, without regard for his own health and often at the risk of his own life, picked his way laboriously through burning streets and over smoking heaps of rubble to the camps in order to inquire about the fate of the camps, in order to be on the spot, to give first instructions for alleviating the great distress, and also in order to lend a hand wherever it was needed.

His high sense of duty was shown by the fact that after the collapse none of the foreign workers did any harm to him, although he was easily accessible to everybody. If he had been the guilty person, as is maintained by the prosecution, an avenging fate would also have reached out for him, as it did in some other cases.

If, during the session of 17 November 1947, Mr. Kupke pleaded not guilty it was a confession made out of inner conviction.

I can be very brief on the basis of the very lengthy statements by my colleagues. Within the scope of the total defense I shall also have to deal with the foreign workers as such. My presentation of evidence will therefore cover the period of time prior to the establishment of the office of the main camp management and put into Kupke's charge.

In conjunction with the evidence to be submitted by other defense counsel my presentation of evidence will contribute to completely refute the accusation by prosecution that foreign workers employed by this Krupp firm were treated inhumanely and cruelly.

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V. ORGANIZATION OF THE KRUPP CONCERN AND THE POSITIONS OF THE DEFENDANTS

A. Introduction

The judgment of the Tribunal (sec. XI), in its early part, gives a concise description of the history and organization of the Krupp concern. In its opening statement, the prosecution asserted that the practical management of the Krupp firm "was handled by the members of the Krupp Vorstand and their principal deputies. In 1939, there were three Vorstand members: the defendants Alfried Krupp and Loeser, and the deceased Paul Goerens * * *. The other ten defendants occupied responsible positions under the three Vorstand members. Seven of them [Eberhardt, Houdremont, Ihn, Janssen, Korschan, Mueller, and Pfirsch] in 1939 held the title of 'Deputy Director'."

From 1903 until December 1943, the Krupp firm was incorporated under German law as "Fried. Krupp Aktiengesellschaft." "Aktiengesellschaft" (ordinarily abbreviated as "A.G.") may be literally translated as "share company." This form of business enterprise was ordinarily adopted by most large German business enterprises. An "A.G." approximates in legal nature the American corporation. It has two governing boards, an "Aufsichtsrat" (supervisory board) and a "Vorstand" (managing board). Concerning these two governing bodies in the Krupp concern, the Tribunal stated in its judgment: "In practice the control of the whole Krupp concern was vested in the Vorstand * * *. The Aufsichtsrat * * * appears to have had the power to review the activities of the Vorstand. However, it met only once a year, and its functions were purely formal."

In December 1943 the Krupp enterprise was converted to an unincorporated enterprise, solely owned by the defendant Alfried Krupp. An intrafirm circular at that time stated that the defendant Alfried Krupp "has the full responsibility and direction of the entire enterprise. To assist him he has appointed a board of business management with the name Das Direktorium [often referred to in the case as the Directorate]. The regular and deputy members of the former Vorstand (managing board), with the exception of Dr. Loeser, resigned, will hereafter be the regular and deputy members of the Direktorium. They will have authority to sign for the firm in place of the owner, and without an adjunct indicating a power of attorney [Prokura]." (*Document NIK–9294, Pros. Ex. 42.*)*

* Reproduced below in section B.

The word "Direktorium," however, was sometimes used to describe the central direction of the firm long before December 1943. Concerning this, the Tribunal stated in its judgment; "The word 'Vorstand' and 'Direktorium' were used interchangeably in the documents in evidence. Both terms refer to the small group of men in the Krupp concern in whom management was centralized. 'Direktorium' is the name given to that body after the reorganization in December 1943. There was, in fact, no difference in responsibility and activities within the concern."

Section B, immediately following, contains only a few contemporaneous documents concerning the organization of the Krupp firm and a stipulation concerning the personal history of and the positions held by the defendant Alfried Krupp. The numerous positions of the defendants, as set forth in the indictment, appear in the early charging paragraphs, where the "persons accused as guilty" are described, and in appendix A (sec. I) of the indictment, which gives a much fuller statement. The nature of the various positions held by the defendants appear from contemporaneous documents, affidavits, and interrogations far too numerous to set forth herein. However, later sections of this volume contain numerous contemporaneous documents and affidavits of defendants which bear directly on the positions and the manner in which the defendants exercised their responsibilities. The reader specifically interested in the acts and responsibilities of a particular defendant is also referred to the opening statements of the prosecution and the defense (sec. IV) and to the judgment of the Tribunal (sec. XI).

B. Contemporaneous Documents and Positions of the Defendants

PARTIAL TRANSLATION OF DOCUMENT NI–2850
PROSECUTION EXHIBIT 29

EXTRACTS FROM THE CHARTER OF FRIED. KRUPP AKTIENGESELLSCHAFT IN ESSEN, AS REVISED ON 18 MARCH 1939

TITLE I

NAME, LOCATION, LIFE OF THE CORPORATION, PURPOSE OF THE ENTERPRISES

Article 1

The corporation bears the name "Fried. Krupp Aktiengesellschaft." It is located in Essen on the Ruhr.

The life of the corporation is not limited to a definite time.

Article 2

The purpose of the enterprise is—

a. The management of the cast steel factory in Essen formerly belonging to the Fried. Krupp firm in Essen—proprietress, Fraeulein [Miss] Bertha Krupp—and its branch establishments and subsidiary works (steelworks, shipyards, machine factories, blast furnaces, coal and iron ore mines, etc.).

b. The production of steel and iron and other metals, as well as all raw and auxiliary materials requisite thereto, processing of steel and iron and other metals for consumer goods, and intermediate products of all kinds, especially the production of railroad and ship construction materials, of war materials, ships, and machines, as well as the marketing of all these products.

c. The acquisition, erection, and operation of new plants and the conclusion of all kinds of transactions which further the purposes named under *a* and *b*.

d. The operation of other enterprises and the undertaking of all kinds of business which are considered as being in the interest of the corporation.[1]

Article 3

The corporation is authorized to found branch establishments and take part in other enterprises.

TITLE II

ORIGINAL CAPITAL, SHARES, SHAREHOLDERS

Article 4

The original capital of the corporation amounts to RM 160,000,000.[2] It is divided into 320,000 shares of RM 500 each.

* * * * * * *

TITLE III

DETERMINATION AND DISTRIBUTION OF PROFITS

* * * * * * *

[1] Regarding the position of subordinate plants of the Krupp concern, the financial control of the central Krupp management over these plants and related matters, see the extracts from the testimony of the defense witness Johannes Schroeder, reproduced in section VII D 4. Schroeder has been chief of the financial department of Krupp from 1943 to the present time.

[2] The original capital, which amounted to 160 million marks, was increased to 180 million marks by the resolution of the general meeting of 8 December 1906 and to 250 million marks by the resolution of the general meeting of 12 December 1914. In accordance with the resolution of the general meeting of 19 December 1921, the original capital was increased by 250 million marks in 1922 and 1923 and was reduced to 160 million marks by the resolution of the general meeting of 13 January 1925.

TITLE IV

ADMINISTRATION

A. VORSTAND

Article 8

The Vorstand consists of a directorate of two or more members, who are appointed by the Aufsichtsrat, which also specifies the number of members.

In important transactions the Vorstand is to reach its decisions on the basis of friendly (kollegialer) deliberation. It establishes the assignment of duties as well as the directives for the general deliberations and decisions by way of an understanding among members of the Vorstand (rules of business procedure). If an agreement among the members of the Vorstand cannot be reached the decision will be made by the Aufsichtsrat, to which the rules of business procedure are to be submitted in every case.

Article 9

The Vorstand conducts the affairs of the corporation according to the charter and the rules of business procedure; it represents the corporation on the outside to the authorities as well as to third persons. Its legitimation is to be evidenced by a certified extract from the trade register.

The members of the Vorstand are obliged, upon invitation of the Aufsichtsrat, to take an advisory part in its sessions.

Article 10

The legal representation of the corporation will be effected in such a way that statements by which the corporation incurs rights or obligations must be made either—

a. By two members of the Vorstand.

b. By 1 member of the Vorstand jointly with 1 Prokurist [official with power of attorney to sign for the corporation].

* * * * * * *

B. AUFSICHTSRAT

Article 13

The Aufsichtsrat of the corporation consists of at least 5 members. The election is for a 4 year term which lasts at the most until the end of the general stockholders' meeting which approves of the business report for the 4th fiscal year after the election. The fiscal year of the election is not counted. The retiring members may be reelected.

If a member resigns during the year, no by-election is necessary as long as there are at least 5 members in the Aufsichtsrat. By-elections are for the remainder of the term of the resigning member. All announcements of the Aufsichtsrat are legally valid if they bear the signature—

"FRIED. KRUPP A.G. THE AUFSICHTSRAT"

and the name of the chairman or his deputy.

* * * * * * *

Article 17

Apart from the duties assigned to the Aufsichtsrat by law, it has in particular the following:

a. Approval of the acquisition, the transfer, and the mortgaging of immobile assets, mines, and mining rights, if the value of the transaction exceeds RM 200,000;

b. Approval of the acquisition, the transfer, and the mortgaging of hypothecated assets and debts against real estate which are recorded if the value of the transaction exceeds RM 200,000;

c. Approval of loan agreements. The use of bank and merchandise credits and the acceptance of deposits are not to be considered a loan;

d. The approval of new buildings and of the acquisition of new mobile property, machinery, equipment; also of alterations of buildings, machinery, and equipment, if these new constructions, new purchases, and alterations involve an expenditure of more than RM 500,000 in each individual case;

e. The authority to have the chairman or any other commissioned member examine all of the Vorstand's records, books, and administrative files, and to audit;

f. The appointment of the members of the Vorstand;

g. The authority to relieve temporarily members of the Vorstand of their office and to rescind their appointment for important reasons;

h. The consent to establish branches.

* * * * * * *

TRANSLATION OF DOCUMENT NIK–9294
PROSECUTION EXHIBIT 42

CIRCULAR FROM KRUPP'S MAIN ADMINISTRATION OFFICE, 29 DECEMBER 1943, ANNOUNCING CONVERSION FROM A CORPORATION TO A FAMILY ENTERPRISE SOLELY OWNED BY DEFENDANT ALFRIED KRUPP*

Main Administration No. D 94

Cast Steel Works, 29 December 1943

[Stamp] 31 December 1943

Nr. _____

To the Plants and Offices and Branch Enterprises

Subject: Conversion of the Aktiengesellschaft [corporation] to the Einzelfirma [individual firm] of Fried. Krupp.

Upon decision of the general meeting of 15 December 1943, the Fried. Krupp Aktiengesellschaft was converted into the individually owned firm of Fried. Krupp, with headquarters in Essen. On the same date and upon simultaneous establishment of articles of incorporation of Fried. Krupp, the firm passed into the sole ownership of Mr. Alfried von Bohlen und Halbach. After registration in the official Trade Register, the family enterprise thus established will in the future have the trade name of—

FRIED. KRUPP.

The branch enterprises—

FRIED. KRUPP
Aktiengesellschaft
Friedrich-Alfred-Huette.

and

KRUPP-STAHLBAU
FRIED. KRUPP
Aktiengesellschaft.

will in the future have the trade names of—

FRIED. KRUPP
Friedrich-Alfred-Huette

and

FRIED. KRUPP
Stahlbau

* The conversion of the firm from a corporation to a special family enterprise was made legally possible by the "Lex Krupp," a special decree signed by Hitler on 12 November 1943 (*Document 1387–PS, Pros. Ex. 475*). "Lex Krupp" and a number of related contemporaneous documents are reproduced in section VI.

Mr. Alfried von Bohlen und Halbach will henceforth have the name of Alfried Krupp von Bohlen und Halbach.

The owner of the family enterprise has the full responsibility and direction of the entire enterprise. To assist him he has appointed a board of business management with the name of "Das Direktorium." [The Directorate]. The regular and deputy members of the former Vorstand, with the exception of Dr. Loeser, resigned, will hereafter be the regular and deputy members of the Direktorium. They will have authority to sign for the firm in place of the owner, without an adjunct indicating power of attorney.

The authority to sign for the individually owned firm by the other persons who were formerly the authorized agents of the Fried. Krupp Aktiengesellschaft has been confirmed. Within the next few days a special circular concerning the form of the signatures will be sent out.

No change is being made with regard to the subsidiary companies which will be managed as independent legal entities.

As of and after 1 January 1944 the signature stamp,

Fried. Krupp
Aktiengesellschaft

will no longer be used. The signature stamps which will be used thereafter are—

1. Fried. Krupp Das Direktorium.
2. Fried. Krupp.
3. Fried. Krupp (Department).

We request that you send an order for whatever signature stamps you may need to the organization department (except for the Direktorium stamp, concerning which a special order will be issued). Pending the receipt of the new stamps, the old ones may be used, after the word "Aktiengesellschaft" has been cut out.

Upon receipt of the new stamps, the old ones will be delivered to the organization department.

New letterheads and other standard forms are being printed. The supply of old stock of every kind must be used up. In the case of forms sent to offices not connected with the firm, "Aktiengesellschaft" will be crossed out.

Fried. Krupp
Das Direktorium
[Signed] GOERENS JANSSEN

For information to all subsidiary companies and plants of the firm.

TRANSLATION OF DOCUMENT NIK-12074
PROSECUTION EXHIBIT 4

STIPULATION BETWEEN PROSECUTION AND DEFENSE, 29 OCTOBER 1947, ESTABLISHING PERSONAL DATA, EDUCATIONAL BACKGROUND, AND POSITIONS HELD BY DEFENDANT ALFRIED KRUPP VON BOHLEN

Stipulation

It is stipulated between the prosecution for Case 10, before the American Military Tribunal in Nuernberg, and the defense counsel for the defendant Alfried Krupp von Bohlen und Halbach,* that the following facts are to be considered incontestable unless the opposite is proved.

I. *Concerning the person of the defendant Alfried Krupp von Bohlen und Halbach*

1. Name: Alfried Felix Alwyn Krupp von Bohlen und Halbach.

2. Date and place of birth: 13 August 1907, Bredeney, district of Essen.

3. Religion: Protestant.

4. Parents: Dr. Gustav Krupp von Bohlen und Halbach, born 7 August 1870; Bertha née Krupp, born 29 March 1886.

5. Sisters and brothers:

(1) (Alfried is the eldest).

(2) Arnold, born 1908, died a few months old.

(3) Claus, born 18 September 1910, certificated civil engineer, head of the Berndorfer Metallwarenfabrik Arthur Krupp A.G., died on active service as lieutenant of the reserve on 10 January 1940.

(4) Irmgard, born 31 May 1912, widow of the landed proprietor Hanno Raitz von Frenz, killed in action as corporal of the reserve, on 3 September 1941.

(5) Berthold, born on 12 December 1913, chemist, assistant at the Chemical Institute of Munich University. Last rank held during the war, first lieutenant of the reserve.

(6) Harald, born on 30 May 1916, Referendar at law. Last rank during the war, first lieutenant of the Reserve; in Russian capitivity, since summer 1944.

(7) Waldtraut, born 31 August 1920, wife of Henry S. Thomas, merchant, of Bremen.

* The defendant Alfried Krupp was known as Alfried von Bohlen und Halbach up to the time in 1943 when the Lex Krupp established the firm of Krupp as a family enterprise and accorded to the defendant the name of Krupp von Bohlen und Halbach. This explains why in various documents and statements the name of the defendant appears as Alfried von Bohlen.

(8) Eckbert, born on 31 August 1922, high school graduate, killed on active service in March 1945 as lieutenant of the reserve.

6. Wife (divorced): Annelise, née Bahr.
7. Child: Arndt, born 24 January 1938.
8. Last address: Essen-Huegel, auf dem Huegel 1.

II. Education

1913–1921—Private tuition.

1922–1925—Realgymnasium, Bredeney.

1925—Examinations and graduation.

April–October 1925—Practice in the training workshop of the Fried. Krupp A.G.

1925–1927—Technical College Munich.

August–September 1926—Practice in the workshops of the Fried. Krupp A.G.

1927–1929—Technical College Berlin-Charlottenburg.

1929–1934—Technical College Aachen.

1934—Final examination as certified civil engineer.

April–October 1935—Unpaid employee [Volontaer] at the Dresdner Bank, Berlin.

III. Career

November 1935—September 1936: Worked at the head administration of the Fried. Krupp A.G. to acquire information.

1 October 1936—Entered the firm of Krupp, appointed deputy director (Prokurist), worked as assistant to the head of the departments of War Material and Artillery Construction, Dr. Griessmann.

1 October 1938—Appointed regular member of the Vorstand of the Fried. Krupp A.G., head of the departments of War Material and Artillery Construction.

1 November 1938—Head of the department of Mining, Raw Materials and Transport.

31 March 1943—Appointed chairman of the Vorstand and Leader of the Enterprise of the Fried. Krupp A.G.

15 December 1943—Sole owner and leader of the enterprises of the firm Fried. Krupp.

IV. Connection with firms of the Krupp concern

Aktiengesellschaft fuer Unternehmungen der Eisen-und Stahlindustrie, [Enterprises of the Iron and Steel Industry, Inc.], Berlin, member of the Aufsichtsrat.

Badische Wolframerz G.m.b.H. [Baden Wolfram Ore, Inc.], Soellingen, near Karlsruhe, member of the advisory board [Aufsichtsrat].

Bergbau A.G. [Mining Industry, Inc.], Lorraine, chairman of the Aufsichtsrat.

Berndorfer-Metallwarenfabrik [Berndorf Metal Products Factory] Arthur Krupp A.G., Berndorf, member of the Aufsichtsrat.

Capito and Klein A.G., Duesseldorf-Benrath, member of the Aufsichtsrat.

Deutsche Schiff and Maschinenbau A.G. ("DESCHIMAG") [German Ship and Machine Construction, Inc.] Bremen, deputy chairman of the Aufsichtsrat.

Fried. Krupp-Berthawerk A.G. [Bertha Works, Inc.], Markstaedt near Breslau, chairman of the Aufsichtsrat.

Fried. Krupp-Germaniawerft, A.G. [Germania Shipyard, Inc.], Kiel-Gaarden, member of the Aufsichtsrat.

Fried. Krupp-Grusonwerk A.G. [Gruson Works, Inc.], Magdeburg-Buckau, member of the Aufsichtsrat.

Gewerkschaft [Mining Company], Emscher-Lippe, Datteln/Westphalia, member of the mining council.

Gewerkschaft Schlesische Nickelwerke [Silesian Nickel Mining Works], Glaesendorf near Frankenstein/Silesia, member of the mining council.

Gewerkschaft Vereinigte Constantin der Grosse [Mining Company Constantine the Great, United], Bochum, member of the mining council.

National Krupp Registrierkassen GmbH. [National Krupp Cash Registers, Inc.], Berlin, member of the administrative council.

Norddeutsche Huette A.G. [North German Foundry, Inc.] Bremen-Oslebshausen, member of the Aufsichtsrat.

N.V. Stuwadoors Maatschappij "Kruwal" [Longshoremen Company "Kruwal,"] Rotterdam, member of the Aufsichtsrat.

Siedlungsgesellschaft Rossenray A.G. [Settlement Company Rossenray, Inc.] Rheinberg, member of the Aufsichtsrat.

"Weser" Flugzeugbau GmbH [Aircraft Construction Inc.], Bremen, member of the advisory council.

Westfaelische Drahtindustrie A.G., [Westphalian Wire Industry, Inc.] Hamm in Westphalia, member of the Aufsichtsrat.

V. Connections with firms outside the Krupp concern

Allianz-Versicherungs A.G., [Alliance Insurance Inc.] Berlin, member of the Aufsichtsrat.

Dresdner Bank, Berlin, member of the Aufsichtsrat.

Flughafen [Airport] A.G., Essen-Muelheim, member of the Aufsichtsrat.

Siemens-Schuckert Werke A.G., Berlin, member of the Aufsichtsrat.

Malbe, Utrecht, member of the advisory council. The company

was the holding company for the members of the Rhine-Westphalian Coal Syndicate, which controlled 49 percent of the shares of the Steinkohlenhandlungsgesellschaft Niederland [Netherlands Coal Trading Company].

Siepmann-Werke A.G., Belecke, member of the Aufsichtsrat.

VI. Industrial and business organizations

Armament Export Association [AGK], member of the advisory council.

District Group Northwest Iron Producing Industry, member of the advisory council and deputy chairman.

Reich Association Iron, deputy chairman and chairman of the committee "Raw Materials and Transport."

Reich Association Coal, member of the Praesidium, chairman of the organization committee.

Rhine-Westphalian Coal Syndicate, Essen, member of the Aufsichtsrat. Economic Group "Iron Producing Industry", deputy chairman.

VII. Berg- und Huettenwerkgesellschaft Ost m.b.H. [Mining and Foundry Company East, Inc.] member of the administrative council.

VIII. Official organizations

Armament Council at the Reich Ministry for Armament and War Production, member.

IX. Appointments and distinctions

War Economy Leader (Wehrwirtschaftsfuehrer) from 11 August 1937.

War Service Cross (Kriegsverdienstkreuz) 1st and 2d class.

X. Political organizations

NSDAP [National Socialist Party]—member since the end of 1938, membership number 6,989,627.

NSFK [National Socialist Flying Corps]—Member since incorporation of DLV [German Aviation Association] into NSFK, 1938 NSFK-Sturmfuehrer [2d lieutenant]; 1939 NSFK-Obersturmfuehrer [1st lieutenant]; 1944 NSFK-Standartenfuehrer [colonel].

DAF [German Labor Front]—Member.

NSV [National Socialists People's Welfare]—Member.

XI. Financial support given to political organizations

To the NSDAP—before 1933—once RM 20–50, once RM 50–100.

To the SS 1931–1939, RM 10 monthly, as paying member.

XII. Deputy chairman of the board of trustees of the Adolf Hitler Fund of the German Economy

XIII. Technical associations

Association of German Iron Foundry Men,
Association of German Engineers,
Association for Mining Interests.

XIV. Other associations and companies

Aldegrewe-Gesellschaft.

Allgemeiner Deutscher Automobilklub [German Automobile Club].

Deutsche Adelsgenossenschaft [Association of the German Nobility].

Deutscher Aero-Klub [German Aviation Club].

Deutscher Hochseesport-Verband "Hansa" [German Sea Sports Association "Hansa"].

Deutsch-Oesterreichischer Alpenverein (Deutscher Alpenverein) [German-Austrian Alpine Club].

Essener Turn- und Fechtklub [Essen Gymnastics and Fencing Club].

Gesellschaft der Freunde der Technischen Hochschule Aachen [Association of the Friends of the Technical College Aachen].

Gesellschaft der Freunde der Technischen Hochschule Berlin-Charlottenburg, Gutenberg-Gesellschaft.

Lilienthal-Gesellschaft fuer Luftfahrtforschung [Lilienthal Association for Aviation Research].

Luftsportverein [Air Sports Association] Dortmund—later DLV, Luftsportverein [Air Sports Association] Herford—then NSFK.

Kaiserlicher Yacht Klub (Yachtklub von Deutschland) [Imperial Yacht Club].

Maximilian-Gesellschaft.

Norddeutscher Regattaverein [Northern German Regatta Club].

Schweizer Alpenklub [Swiss Alpine Club].

Verein Berliner Kuenstler "Das Kuenstlereck" [Association of Berlin Artists "The Artist's Corner"].

XV. Hobbies

During school—rowing, hockey, skiing.
Afterward—theater, sailing, flying.

Nuernberg, 29 October 1947
[Signed] RUSSELL THAYER
(Russell Thayer)
Chief Trial Team III

[Signed] OTTO KRANZBUEHLER
(Otto Kranzbuehler)
Attorney at law
Defense counsel at the
American
Military Tribunal

Stipulation

It is stipulated between the prosecution for Case 10 before the American Military Tribunal in Nuernberg and the defense counsel for the defendant Alfried Krupp von Bohlen und Halbach, supplementary to the stipulation of 29 October 1947, that the following facts are to be considered incontestable, unless the opposite is proved. Alfried Krupp von Bohlen has either been a member of the Deutsche Kolonialbund [German Colonial Association] or the Verein [Volksbund] fuer das Deutschtum im Ausland [Association for Germanism abroad].

Nuernberg, 31 October 1947
[Signed] RUSSELL THAYER
(Russell Thayer)
Chief, Trial Team III

[Signed] OTTO KRANZBUEHLER
(Otto Kranzbuehler)
Attorney at law
Defense counsel at the
American Military
Tribunal

VI. CRIMES AGAINST PEACE—COUNTS ONE AND FOUR

A. Introduction

All of the defendants were charged with crimes against peace in counts one and four of the indictment (sec. I). Count one (sec. I, par. 1) alleged their participation "in the initiation of invasions of other countries of wars of aggression in violation of international laws and treaties, including but not limited to planning, preparation, initiation, and waging wars of aggression, and wars in violation of international treaties, agreements, and assurances." Count one contained thirty further paragraphs of specification.

Count four (sec. I, par. 64) alleged that all the defendants participated "* * * in the formulation and execution of a common plan and conspiracy to commit, and which involved the commission of, crimes against peace (including the acts constituting war crimes and crimes against humanity, which were committed as an integral part of the crimes against peace) * * *."

Shortly after the defense began the presentation of its case, the Tribunal granted a defense motion for an acquittal of all defendants under both the aggressive war counts. This dismissal was based upon a defense motion of 11 March 1948, filed soon after the conclusion of the prosecution's case-in-chief. The Tribunal granted this defense motion on 5 April 1948, finding that the prosecution had not proved a *prima facie* case of guilt as to any defendant.

Since the dismissal of the aggressive war charges was based upon the insufficiency of the prosecution's evidence as of the conclusion of the prosecution's case-in-chief, the evidence reproduced herein in the section on aggressive war has been selected entirely from the evidence proffered during the prosecution's case-in-chief (sec. B). Only contemporaneous documents have been included. These contemporaneous documents are followed by a discussion on the record during which the Tribunal sought out the prosecution's position as to the legal effect of violations of the armament limitations of the Versailles Treaty (sec. C). Then follows the defense motion for a judgment of not guilty on the charges of aggressive war, together with the defense memorandum in support thereof (sec. D), and extracts from the prosecution's answer to the defense motion (sec. E). Additional argumentation on aggressive war appears in the opening statements of both the prosecution and the defense (sec. IV).

The present section concludes with the order of the Tribunal sustaining the defense motion on crimes against peace (sec. F); the Tribunal's opinion concerning the dismissal of the charges of crimes against peace (sec. G); and the separate concurring opinions of Presiding Judge Anderson (sec. H) and Judge Wilkins (sec. I).

B. Contemporaneous Documents Concerning Period 1919-1943

I. ARMAMENT OF GERMANY AFTER THE TREATY OF VERSAILLES

EXCERPTS FROM DOCUMENT NIK–12160
PROSECUTION EXHIBIT 128

EXTRACTS FROM THE TREATY OF VERSAILLES, 28 JUNE 1919

The Treaty of Peace Between the Allied and Associated Powers and Germany, Signed at Versailles, 28 June 1919

* * * * * * *

PART V

MILITARY, NAVAL, AND AIR CLAUSES

In order to render possible the initiation of a general limitation of the armaments of all nations, Germany undertakes strictly to observe the military, naval, and air clauses which follow.

SECTION I

MILITARY CLAUSES

CHAPTER I

EFFECTIVES AND CADRES OF THE GERMAN ARMY

* * * * * * *

Article 160

(1) By a date which must not be later than March 31, 1920, the German Army must not comprise more than seven divisions of infantry and three divisions of cavalry.

After that date the total number of effectives in the army of the states constituting Germany must not exceed one hundred thousand men, including officers and establishments of depots.

The army shall be devoted exclusively to the maintenance of order within the territory and to the control of the frontiers.

* * * * * * *

Article 168

The manufacture of arms, munitions, or any war material, shall only be carried out in factories or works the location of which shall be communicated to and approved by the Governments of the Principal Allied and Associated Powers, and the number of which they retain the right to restrict.

Within 3 months from the coming into force of the present Treaty, all other establishments for the manufacture, preparation, storage, or design of arms, munitions, or any war material whatever shall be closed down. The same applies to all arsenals except those used as depots for the authorized stocks of munitions. Within the same period the personnel of these arsenals will be dismissed.

* * * * * * *

Article 170

Importation into Germany of arms, munitions, and war material of every kind shall be strictly prohibited.

The same applies to the manufacture for, and export to, foreign countries of arms, munitions, and war material of every kind.

Article 171

The use of asphyxiating, poisonous or other gases and all analogous liquids, materials, or devices being prohibited, their manufacture and importation are strictly forbidden in Germany.

The same applies to materials specially intended for the manufacture, storage, and use of the said products or devices.

The manufacture and the importation into Germany of armored cars, tanks and all similar constructions suitable for use in war are also prohibited.

* * * * * * *

Article 179

Germany agrees, from the coming into force of the present Treaty, not to accredit nor to send to any foreign country any military, naval, or air mission * * *.

* * * * * * *

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Article 190

Germany is forbidden to construct or acquire any warships other than those intended to replace the units in commission provided for in Article 181 of the present Treaty.

The warship intended for replacement purposes as above shall not exceed the following displacement:

Armored ships	10,000 tons
Light cruisers	6,000 tons
Destroyers	800 tons
Torpedo boats	200 tons

Except where a ship has been lost, units of the different classes shall only be replaced at the end of a period of 20 years in the case of battleships and cruisers, and 15 years in the case of destroyers and torpedo boats, counting from the launching of the ship.

Article 191

The construction or acquisition of any submarine, even for commercial purposes, shall be forbidden in Germany.

* * * * * * *

SECTION IV

INTER-ALLIED COMMISSIONS OF CONTROL

Article 203

All the military, naval, and air clauses contained in the present Treaty, for the execution of which a time limit is prescribed, shall be executed by Germany under the control of Inter-Allied Commissions specially appointed for this purpose by the Principal Allied and Associated Powers.

* * * * * * *

Article 208

The Military Inter-Allied Commission of Control will represent the Governments of the Principal Allied and Associated Powers in dealing with the German Government in all matters concerning the execution of the military clauses.

In particular it will be its duty to receive from the German Government the notifications relating to the location of the stocks and depots of munitions, the armament of the fortified works, fortresses, and forts which Germany is allowed to retain, and the location of the works or factories for the production of arms, munitions, and war material and their operations.

It will take delivery of the arms, munitions, and war material; will select the points where such delivery is to be effected; and will supervise the works of destruction, demolition, and of rendering things useless, which are to be carried out in accordance with the present Treaty.

The German Government must furnish to the Military Inter-Allied Commission of Control all such information and documents as the latter may deem necessary to ensure the complete execution of the military clauses, and in particular all legislative and administrative documents and regulations.

* * * * * * *

PARTIAL TRANSLATION OF DOCUMENT NIK–12114 PROSECUTION EXHIBIT 130

ULTIMATUM TO GERMANY BY GREAT BRITAIN, FRANCE, ITALY, BELGIUM, AND JAPAN, 5 MAY 1921, PROTESTING AGAINST VIOLATIONS OF THE PEACE TREATY AND GERMANY'S REPLY, SIGNED BY REICH CHANCELLOR WIRTH, 11 MAY 1921

Ultimatum to Germany by the Allies

(5 May)

In view of the fact that, notwithstanding successive concessions made by the Allies since the signing of the Versailles Treaty and in spite of warnings and sanctions determined at Spa and in Paris, as also other sanctions specified in London and applied since, the German Government is failing to fulfill the obligations incumbent on it by the terms of the Versailles Treaty, with regard to:

1. Disarmament;
2. The payment of 12 billion gold marks, due on 1 May 1921, by the terms of Article 235 of the treaty, which payment has already been claimed by that date by the Reparations Committee;
3. The trial of the guilty, under the conditions newly stipulated by allied memoranda of 13 February and 17 May 1920;
4. Certain other important questions, notably those formulated by Articles 264–267, 273, 321, 322, and 327 of the Treaty;

The Allied Powers have decided:

a. To proceed, as from today, with all preliminary measures required for the occupation of the Ruhr valley by the Allied Forces on the Rhine according to the terms provided by paragraph *D;*

b. In accordance with Article 233 of the Treaty, to call upon the Reparations Committee to notify the German Government without delay of the dates and terms governing Germany's pay-

ment of her entire debt and to make their decision in this respect known to the German Government by 6 May at the latest;

c. To direct the German Government to declare, within 6 days of the date of receiving the above decision, its irrefutable determination:

I.—To carry out, without reservation or condition, its obligations as specified by the Reparations Committee.

II.—To accept and undertake, with regard to these obligations, and without reservation or condition, the guarantees ordained by the Reparations Committee.

III.—To carry out without reservation or delay:

The measures relating to military, naval, and aerial disarmament of which the German Government has been informed by the Allied Powers in their letter dated 29 January 1921, whereby executive measures that have already fallen due should be completed without delay, the others to be effected by the appointed dates.

IV.—To proceed without reservation or delay with the trial of the war criminals, and with the execution of the other parts of the Treaty which have not yet been dealt with satisfactorily, and which are mentioned in the first paragraph of the present memorandum;

d. The Allied Powers have decided to proceed, on 12 May, with the occupation of the Ruhr valley and to take all other military and naval measures, following the failure of the German Government to comply with the above conditions.

This occupation is to last until Germany has fulfilled the provisions enumerated under paragraph *c.*

London, 5 May 1921

LLOYD GEORGE
BRIAND
COUNT SFORZA
JASPAR
HAYASHI

Official Text of German Acceptance

(11 May)

On the strength of the decision by the Reichstag, I have been charged to declare, as requested, the following, in the name of the new government and in connection with the resolution of the Allied Powers dated 5 May 1921:

The German Government is determined:

1. To fulfill without conditions or reservations its obligations as settled by the Reparations Committee;

2. To accept and carry out, without reservation or condition, the guarantees ordained by the Reparations Committee, in connection with these obligations;

3. To carry out without reservation or delay the measures relative to the disarmament of military, naval, and aerial forces as specified in the memorandum by the Allied Powers dated 21 January 1921. Measures, execution of which has been delayed, must be carried out at once; all others within the prescribed time limits;

4. To proceed without reservation or delay with the trial of the war criminals and with the execution of the provisions laid down by the Treaty, which are mentioned in the first part of the memorandum by the Allied Governments dated 5 May 1921.

I request that you bring this declaration to the notice of the Allied Powers immediately.

Signed: WIRTH*

PARTIAL TRANSLATION OF DOCUMENT NIK–7352 PROSECUTION EXHIBIT 131

OFFICIAL ANNOUNCEMENT BY THE REICH MINISTER OF DEFENSE, 4 JULY 1921, LISTING THE FIRMS AUTHORIZED TO PRODUCE SPECIFIED MILITARY EQUIPMENT AND NOTING THAT TRANSGRESSIONS ARE SUBJECT TO PROSECUTION

Deutscher Reichsanzeiger und Preussischer Staatsanzeiger

[German Reich Gazette and Prussian State Gazette]

No. 163 Berlin, Friday 15, July, Evening edition 1921

Contents of official part:

Germany

* * * * * * *

Announcement of the list of future suppliers of weapons, munitions, and war materials.

* * * * * * *

Announcement

By having accepted the ultimatum of the Allied Governments dated 5 May 1921, the list of future suppliers of weapons, munitions, and war materials, that had been compiled in accordance with Article 168 of the Peace Treaty, has been recognized by the German Government. The list is announced below.

List of those firms, who have been licensed by the Allied Nations for the permitted production of weapons, munitions, and war materials (Article 168 of the Peace Treaty).

* A letter from Wirth to Gustav Krupp in August 1940 (*Document NIK–8575, Pros. Ex. 132*), concerning earlier secret rearmament is reproduced below.

Type of material authorized for manufacture	Firm	Remarks
	Article 1	
Complete guns, limbers, barrels, gun carriages, brakes, special carriages, range towers.	1. Friedrich Krupp A.G., Essen-Ruhr. Plants in Essen, town works in Annen, firing range near Meppen, (fireworks, technical works of B Bottrop are not licensed.)	Manufacture of material of a caliber higher than 17 cm., excluding the latter caliber.
	2. Rheinische Metallwaren- und Maschinenfabrik in Duesseldorf [Rhine metal Products and Machine Works]. Plants at Duesseldorf-Derendorf, firing range Unterlues. (The laboratory Unterlues is not licensed).	Manufacture of material for small and medium calibers up to and incl. 17 cm., excluding higher calibers.
	Article 2	
Sight instruments and laying gears.	Simson and Co. in Suhl. Suhl Works.	
	Article 3	
Optical instruments.	Carl Zeiss-Jena. Works at Jena.	
	Article 4	
Trench mortars.	Fahrzeugfabrik, Eisenach. Works at Eisenach.	
	Articles 5, 6, 7	
Rifles and carbines, pistols, machine guns, machine-pistols.	1. Simson and Co. in Suhl. Suhl Works.	Manufacture of rifles; carbines, pistols, machine guns, and machine pistols.
Machine gun carriage.	2. Fahrzeugfabrik Eisenach. Works at Eisenach.	Manufacture of machine gun carriages.
	Article 8	
Bayonet-like weapons.	Weyersberg - Kirschbaum and Co. in Solingen. Solinger Works.	

Type of material authorized for manufacture	Firm	Remarks
	Article 9	
Manufacture of shell bodies (cases) of all classes and bomb casings (cases) for trench mortars.	Deutsch - Luxemburgische Bergwerks- und Huetten A.G. Dept. Dortmund Union in Dortmund. Dortmund Works.	
	Article 10	
Manufacture and repair of cases for artillery ammunition.	Polte, cartridge works, Magdeburg. Works at Magdeburg. (Only new factory.)	
	Article 11	
Fuses and fuse systems.	Rheinische Metallwaren- und Maschinenfabrik Duesseldorf. Plant at Soemmerda.	In addition such clock works as will be licensed by the J.M.K.K. as subsidiary supplier for mechanical fuses.
	Article 12	
Percussion caps for rifles and small percussion caps for fuses.	Dreyse and Collenbusch in Soemmerda. Works at Soemmerda.	
	Articles 13, 14, 15	
Nitroglycerin powder, nitrocellulose powder, primer magazine, filling powder, maneuver powder, gunpowder, high explosives, detonators, explosive charges, explosive charges for missiles of all sizes and of bombs with molten filling, manufacture of removable missile charges.	1. Westfaelisch-Anhaltische Sprengstoff A.G., Berlin W 9. Plant at Reinsdorf. 2. Koeln-Rottweil A.G., Berlin NW 7. Works at Hamm.	For the whole of the manufacture mentioned under Articles 13, 14, and 15, excluding gunpowder. (Only gun powder).
	Article 16	
Manufacture of munitions for small arms. Processing of cases and assembly of blank cartridges. Preliminary work for the cases and other work in the manufacture of blank cartridges.	Polte, Patronenfabrik, Magdeburg. (Only new works)	

Type of material authorized for manufacture	Firm	Remarks
	Articles 17, 18, 19, 20	
Stick-grenades, egg-shaped hand grenades, rifle grenades, and appropriate fuses.	Richard Rinker, G.m.b.H. in Menden (Iserlohn district).	
	Article 21	
For cars equipped for wireless telegraphy including instruments.	A.G. Telefunken, Berlin.	

II. FOR THE NAVY

Factory	Type of material authorized for manufacture (see Blue Book)
1. Fried. Krupp A.G., Essen-Ruhr, Firing range Meppen. Note—The Bottrop-Factory is not authorized.	*a.* Guns of more than 17 cm., caliber. *b.* Stationary and mobile gun mountings, hydraulic-electric compressed air and hand operated drives, ammunition hoists, etc., for a. *c.* Armor plates and gun shields for a. *d.* Mechanical firing device for a. *e.* Training equipment for gun crews a. *f.* Semifinished torpedo air receivers.
2. Rheinische Metallwaren and Maschinenfabrik, Duesseldorf, Derendorf Works, Unterlues firing ranges. Note—The Unterlues laboratory is not authorized.	*a.* Light and heavy caliber guns (incl. mine destroying guns) not exceeding 17 cm., cal. *b.* Stationary and mobile gun mountings, hydraulic electric, compressed air, and hand operated drives, ammunition hoists, etc., for a. *c.* Gun shields for a. *d.* Mechanical firing device for a. *e.* Training equipment for gun crews a. *f.* Fuses (at Soemmerda Factory).
3. Bockhacker and Co., G.m.b.H., Cologne-Ehrenfeld.	Manufacturing of all kinds of ammunition containers.
4. Westfaelisch - Anhaltische Sprengstoff A.G. Chemische Fabriken, Fabrik Reinsdorf [Westphalia-Anhalt Explosives Corp., Chemical Factories, Reinsdorf plant].	*a.* Manufacturing of all kinds of explosives except black powder; but including those used for: torpedo war heads, shells, mine charges, mine destruction charges, net defense charges, primings, etc. *b.* As filling factory of charges for shells, primers, etc.

Factory	Type of material authorized for manufacture (see Blue Book)
5. Koeln-Rottweil A.G., Berlin.	For black powder manufacturing.
6. Polte Metallwerk [Metal Works], Magdeburg (the new works only).	*a.* For small arms ammunition manufacture. *b.* For cartridges and cartridge cases for guns of all calibers.
7. Deutsch-Luxemburgische Bergwerks- und Huetten A.G. [German-Luxemburg Mines and Iron Plants Corp.], Dortmund.	For all kinds of projectiles.
8. Simson and Co., Suhl.	Small arms and machine guns, pistols, etc.
9. Weyersberg Kirschbaum and Co., Solingen.	Swords, bayonets, etc.
10. Carl Zeiss, Jena.	Optical devices of all kinds, including artillery and torpedo firing line search lights, etc. As far as authorized, firing control systems and measuring instruments for coastal fortifications.
11. Julius Pintsch A.G., Fuerstenwalde and Berlin.	*a.* Torpedo tubes. *b.* Airpumps.
12. Berliner Maschinenbau A.G., formerly L. Schwartzkopff, Berlin.	Complete torpedos incl. gyroscopes but excl. war-heads. Note—Semifinished torpedo air-receivers are supplied by Krupp, torpedo hulls by Thale iron works.
13. Iron Smelting Works, Thale/Harz.	*a.* Torpedo hulls. *b.* Torpedo war-heads. *c.* Mine casings. *d.* Net barrage buoys and containers. *e.* Mine detection and destruction buoys and containers.
14. Gesellschaft fuer elektrische Apparate m.b.H. Berlin-Marienfelde. [Electrical Appliances Company, Inc. Berlin-Marienfelde.]	*a.* Electric artillery firing control systems. *b.* Electric torpedo firing control systems. *c.* Electric firing mechanisms. *d.* As far as authorized—coastal firing control systems and measuring instruments.
15. Siemens-Schuckertwerke G.m.b.H., Berlin-Siemensstadt.	*a.* Mine parts for mines construction and destruction. *b.* Net barrage gear. *c.* Searchlights. *d.* Electrical machinery.

Factory	Type of material authorized for manufacture (see Blue Book)
16. Schaeffer and Budenberg G.m. b.H., Magdeburg-Buckau.	Mine tube springs (authorization of firm subject to result of tube springs manufacture test by NIACO—representative).
17. Telephon- Fabrik A.G., previously J. Berliner, Hannover.	Artillery and torpedo firing control telephone systems of all kinds.
18. Akkumulatorenfabrik [electric batteries factory], Hagen/Westphalia.	Electric batteries and accumulators of all kinds for order transmitting apparatus. Mine discharge circuits and general electrical installations.
19. Felten and Guilleaume-Carloswerk A.G., Cologne-Muelheim.	Timing devices and small mechanical devices for mines, mine destruction, net barrages, etc.
20. Gelsenkirchener Bergwerke A.G. [Gelsenkirchen Mining Corp.] Westphalia.	Mine moorings.
21. I. H. Gempt. Langerich.	Wire cables for anchor ropes, mine detection cables, net barrages, etc.
22. Voltohm, Rope and Cable Works, Frankfurt.	Mine detection cables till 30 September 1921, whereafter this firm will cease to supply war material.
23. Geissler and Co., Berlin.	Glass fittings for mines.
24. Gesellschaft fuer drahtlose Telegraphie m.b.H. (Telefunken), [Radio-Telegraph Communications Corporation-Telefunken], Berlin.	Navy wireless telegraphy apparatus.
25. C. Lorenz A.G., Berlin, Tempelhof.	Navy wireless telegraphy apparatus.
26. Signalgesellschaft, [Signal Corporation], Kiel.	Submarine telegraphy.
27. Marinewerft [navy yard], Wilhelmshaven.	Construction of ships, engines, and boilers for warships, all kinds of repairs, overhauls, and alterations to warships.
28. Marinewerft [navy yard], Kiel.	Construction of ships, engines, and boilers for warships, all kinds of repairs, overhauls, and alterations to warships.

Note—(1) War materials, or parts thereto, may not be produced at any factory other than the one specifically mentioned above.

(2) No restrictions in the production of domestic and industrial commodities in postwar factories are permissible.

In connection with the above, particular attention is drawn to the Peace Treaty Enactment Law of 31 August 1919 (Reichsgesetzblatt [Reich Law Gazette]), No. 171, page 1530, Article 24, paragraphs 1 and 6 which provide for prosecution according to penal law in case of infringement.

Berlin, 4 July 1921

The Reich Minister of Defense
As deputy: VON FELDMANN

PARTIAL TRANSLATION OF DOCUMENT NIK–7353 PROSECUTION EXHIBIT 137

EXTRACT FROM NEW LIST OF AUTHORIZED ARMAMENT MANUFACTURERS, PUBLISHED 14 JUNE 1927, CONCERNING WAR MATERIALS APPROVED FOR PRODUCTION BY FRIED. KRUPP A. G.

Deutscher Reichsanzeiger und Preussischer Staatsanzeiger

[*German Reich Gazette and Prussian State Gazette*]

No. 136 Evening Edition

Berlin, Tuesday 14 June 1927

German Reich Official Public Notice

In the Reich Gazette No. 163 of 15 July 1921, we published a list of firms who had been approved by the Allies for the production of arms, munitions, and war materials (Article 168 of the Peace Treaty).

This list will be replaced by the following list of plants or factories whose maintenance for the permissible production of arms, munitions and war materials has been approved.

No.	Designation of firm	Situation of works	Production for army	Production for navy
*	*	* *	* *	*
16	Fried. Krupp A.G., Cast Steel Works.	Essen.	*a.* Complete guns (barrels and breeches), including all sighting and aiming equipment which according to the design belongs directly to the gun, mounts, brakes (for material of	*a.* Complete guns (barrels and breeches), including all aiming and sighting equipment, which according to the design belongs directly to the gun, gun mounts with corresponding

No.	Designation of firm	Situation of works	Production for army	Production for navy
			calibers over 17 cm.). Gun carriages for 21 cm. Moersers. *b.* Unprocessed barrel blocks for rifles, carbines, machine guns, pistols, machine pistols. *c.* Armor plates for gun shields. *d.* Armor plates for protected army transport vehicles, armor plates for police armored vehicles equipment of the latter for fitting of 2 machine guns. *e.* Pontoons. *f.* Certain cast steel products.	gun turrets if these belong to the gun; brakes, machine equipment with hydraulic, electrical, compress air or hand gear, munition elevators, etc. (for material of calibers over 17 cm.). *b.* Unprocessed barrel blockings for rifles, carbines, machine guns, pistols; unprocessed rifle barrel blockings for 11 mm., rifle barrels for ammunition type 1871. *c.* Armor plates for gun turrets and shields; ships armor. *d.* Assembly of contract guns (Abkomm - Kanonen) which were delivered by the Rheinische Metallwaren- und Maschinenfabrik in return for the material specified under *a.* *e.* Instruction material for the train-

No.	Designation of firm	Situation of works	Production for army	Production for navy
				ing of personnel in handling the guns specified under a. *f.* Certain cast steel products. *g.* Air drums for torpedo boats (unprocessed).

* * * * * * *

TRANSLATION OF DOCUMENT NIK-12057
PROSECUTION EXHIBIT 135

OPINION OF THE REICH DEFENSE MINISTRY, 7 JANUARY 1927[1], CONCERNING THE LEGALITY OF MOBILIZATION MEASURES UNDER GERMAN AND INTERNATIONAL LAW[2]

Reichswehr Ministerium

Justitiar (Justiciary) I

Berlin, 7 January 1927

Legal Opinion on the Question of Whether a Legal Basis Can Be Established for Mobilization Measures

The Peace Treaty of Versailles contains some very explicit provisions for the strength and structure of the German Wehrmacht [armed forces], regarding arms and equipment, in terms of munitions and material as well as for recruiting and training. These stipulations were further elaborated in regard to various points by special regulations. Consequently, the German Wehrmacht in all of its aspects is regulated to the minutest detail. Its purpose likewise is defined in the Treaty in Article 160, paragraph 2, second sentence of the Treaty of Versailles, which states that the army is destined to serve merely for maintaining order within the German boundaries, and to serve as border police or as border guard.

[1] This memorandum was found in the files of the Military Economy Office (Wehrwirtschaftsamt) of General Thomas.

[2] When this exhibit was introduced in evidence, the Tribunal directed a number of questions to the prosecution concerning the relation of a breach of the disarmament provisions of the Versailles Treaty to the prosecution's charges of crimes against peace. Pertinent parts of the transcript containing this discussion are reproduced below in section C.

Article 178 explicitly forbids all mobilization measures or such measures as point to a mobilization. In this connection it is stressed particularly that in no case troop formations, official agencies, or staffs are permitted to comprise a nucleus for supplementary formations. The Treaty does not explain in any way what is to be understood by mobilization. [Page 2 of original.] From the context, however, it would appear from the start that such measures are meant which aim at an increase in the numerical strength or merely in equipment of the military potential explicitly laid down in the Treaty.

The ban on all mobilization measures is found in part V, chapter 3, of the Treaty of Versailles entitled "Increase of Army Strength and Military Training", thus dealing exclusively with military questions. Also, the example incorporated in Article 178 itself, in paragraph 2 (supplementary units), bears out this interpretation. It is true that there is a possibility of the enemy treaty partners seeking a broader interpretation of Article 178 in that measures affecting economic and non-military fields* intended to serve the preparation for war would come under the ban on mobilization measures. [Page 3 of original.] On the other hand it cannot be denied that the military power conceded by the Peace Treaty may be "mobilized," i.e., made ready for action, *within existing organization, by the means,* and *for the purpose* sanctioned by the Treaty, and that preparations incidental thereto are allowed to be made. To extend the mobilization ban also to cover this would be unreasonable in as much as it would be impossible even to utilize the forces permitted by the Treaty (refer also to Article 39, second paragraph of the National Defense Act which the Treaty partners did not query although it deals specifically with "mobile" employment of the members of the Wehrmacht). Hence, in the case of the Wehrmacht conceded by the Treaty, mobilization measures—economic in nature or otherwise—could be taken subject to the restrictions laid down in the Treaty of Versailles. The proposed mobilization measures, however, exceed the mobilization of a Wehrmacht such as the Treaty provides. Its aim is the increase of the military power beyond that authorized by the Treaty; it therefore undoubtedly falls under Article 178 of the Treaty of Versailles. The question now arises what consequences this violation may entail.

* In the light of the first four lines of page 2, these seem to be prohibited *eo ipso.* In the opinion of the Entente the approved firms are able to cope with the active employment of the *existing* army.

The Peace Treaty of Versailles first of all is a treaty concluded under international law. This being the case, it is binding for the

German Reich. The Reich then has to take the responsibility for a violation of pledges made under international law. [Page 4 of original.] However, it is a premise to that responsibility that the organs which represent the Reich in international relations may be charged with such violation. In this instance this premise would be given only as soon as those organs (Reich President, Reich Government) somehow actively participated in the organization of the defense of the country. As long as this is not the case, international action against the German Reich can be successfully contested since the Reich is responsible only for the actions of its constitutional authorities. With the moment, however, that a legal basis has been created for this measure which infringes on the terms of the Peace Treaty—this being impossible without the organs representing the Reich taking a hand—the Reich would no longer be in a position to evade its responsibility for this violation under international law. The dangers resulting therefrom cannot be foreshadowed, but undoubtedly they are grave and might lead to results which are out of proportion to the problematical advantage of the mobilization measures under review.

Furthermore, the Peace Treaty of Versailles is also a law of the Reich, and by reason of this, it is binding on all members of the Reich at home. This commitment ranks even superior to the provisions of the constitution of the German Reich since Article 178, paragraph 2, second sentence of that Constitution, provides that "The provisions of the Peace Treaty signed on 28 June 1919 in Versailles remain unaffected by the Constitution." [Page 5 of original.]

The members of the Reich Government who participate in the preparations for mobilization of a Wehrmacht exceeding that sanctioned by the Treaty would make themselves guilty of an intrastate violation of the Peace Treaty promulgated as a Reich law, and, as a result of this, they could be indicted before the State Judicial Court for culpable violation of their official duties under Article 59 of the Constitution at the behest of the Reichstag. In view of the frequent changes of government and considering the uncertain inner-political situation, this possibility should also be taken seriously into account.

Signed: SEMLER

GERMAN LAW OF 27 JULY 1927 PROHIBITING THE IMPORTATION, EXPORTATION, AND MANUFACTURE OF IMPLEMENTS OF WAR*

LAW ON IMPLEMENTS OF WAR, 27 JULY, 1927, 1927 REICH LAW GAZETTE, PART I, p. 239

The Reichstag has passed the following law, which is herewith promulgated with the concurrence of the Reichsrat.

Article 1

The importation and exportation of implements of war of all kinds (arms, ammunition, and other implements), as well as their production for export is prohibited.

Article 2

Implements of war may neither be produced, nor stored, nor handled for domestic use.

Article 3

The following products are covered by the provisions of Article 1 and 2, insofar as Article 7 provides nothing to the contrary:

1. Guns and mortars of all kinds, as well as their trailers and gun carriages; special accessories.

2. Shells and ammunition for the weapons mentioned in Article 1.

3. *a.* Automatic weapons of all kinds and of all calibers, as well as their gun carriages.

b. Means of transportation and special accessories for these weapons.

4. Rifles, short rifles [Stutzen], and carbines of all types, which—*a.* belong or will belong to the equipment of the army of any country, *b.* are adapted for the use with ammunition employed by the German Wehrmacht, or

c. no longer belong to the equipment of the army of any country, but which have a potential military use and are designated for purposes of war.

5. Shells and ammunition for the weapons listed in Articles 3*a* and 4.

6. Pistols and revolvers, automatic or with a self-loading device, with a barrel length over 9.8 cm., or with a caliber over 8 mm.

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* This Reich law replaced the law of 22 December 1920, as amended by the law of 26 June 1921. See Article 12.

7. Mechanisms designed for war purposes and machines for the shooting or dropping of bombs, torpedos, depth charges, and other kinds of shells.

8. Hand grenades, rifle grenades, and mortar bombs.

9. *a.* Land mines [Landminen].

b. Bombs designed for purposes of war.

10. Torpedo tubes and mechanical apparatus belonging to torpedo tube installations.

11. *a.* Torpedo tube charges.

b. Torpedoes and their special accessories.

12. Depth charges, towed explosive charges, drifting mines, and sea mines which can be anchored.

13. Ammunition crates and specially designed packing crates for the transport and storage of implements of war.

14. Submarines, their telescopes, and special accessories.

15. Substructures and machinery installations for naval artillery.

16. Shell hoists and loading devices for naval artillery.

17. Mechanic and electric firing apparatus for naval artillery and for torpedo launching weapons.

18. Apparatus for the fire direction of torpedo launching weapons.

19. Fixed or movable antisubmarine net apparatus.

20. Armor plates, armor turrets, and gun shields.

21. Combat cars (tanks) and armored cars.

22. *a.* Lances and fixable bayonets.

b. Swords designed for purposes of war.

23. *a.* Ships of every type and size, which have manifestly been built or equipped for use as warships or as submarine craft of any type. Commercial surface craft of every type and speed are not covered by this section unless they have in peace time been furnished with special accessories which manifestly serve the purpose of weapons (gun, mine, aeroplane, etc.). Strengthening the deck is permitted in peace time, but only on commercial vessels which are built, rebuilt, or repaired in Germany by order or account of a foreign country, and which are destined for export immediately after being built, rebuilt, or repaired.

b. Boilers and main machines of every type of drive, which manifestly are specially designed for use on warships or submarine craft of every type; specially equipped auxiliary machines which are manifestly designed for these boilers and main machines.

24. Mechanisms designed for purposes of war, for the discharge or dropping of gas or smoke and flame throwers.

25. *a.* Mechanisms for the preparation and control of firing.

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b. Telescopic and sighting mechanisms and range finders designed for purposes of war.

26. *a*. Optical instruments, sound range apparatus, and flash ranging apparatus designed for purposes of war.

b. Searchlights designed for purposes of war.

27. Sending and receiving installations and apparatus designed for purposes of war, and all other apparatus designed for the same purpose, which permit the conveying, receiving, or intercepting of messages or the controlling of military and naval units.

28. Flares, signal rockets, landing rockets, and ground signal projectors designed for purposes of war.

29. Pieces which constitute part of individual or general military equipment designed for purposes of war, including steel helmets and gas masks.

30. Entrenching tools specially designed for purposes of war.

31. Barbed wire specially designed for purposes of war, including the props and other defense equipment.

32. Motor cars and trailers specially designed for purposes of war.

33. Horse-drawn vehicles specially designed for purposes of war.

34. Observation cars and observations ladders designed for purposes of war.

35. Special equipment for bridge transports and their pontoons, designed for purposes of war.

36. Power-drawn or horse-drawn field bakeries and their special equipment, designed for purposes of war.

37. Rolling stock for rails specially designed for purposes of war, also special accessories and the special equipment for transforming general rolling stock into rolling stock for purposes of war.

38. All training installations which serve to train personnel in everything which concerns artillery, the use of torpedos and depth charges, the laying of sea mines, fire direction for artillery and torpedo launching arms, and methods of attack; also the range finders, searchlights, installations for wireless telegraphy, and submarine signaling designed for purposes of war.

39. Main parts—

a. Of the products mentioned in sections 1 to 10, 12, 13, 17–20, 22*a*, and of the gas masks mentioned in section 29.

b. Of the products in sections 11, 14–16, 21, 23*b*, 25*a*, 32, 33, and such products as mentioned in sections 25*b* and 26*a* which are specially designed for purposes of war, in as far as these products are not normally used, in the same form, for general economic purposes.

40. *a.* Prepared main parts according to section 39, of the products mentioned in sections 1–3, 7–12, 15, 16, 20, and 21, in as far as they are manifestly designed for the production of weapons, ammunition, and implements of war or have reached a stage in fabrication which would normally make them usable for purposes of war only.

b. Prepared main parts of the products mentioned in section 4, in as far as they have reached a stage in fabrication which would usually make them usable for purposes of war only, and of the products mentioned in section 5, in as far as they have been subjected to more than one cold drawing treatment [Kaltziehverfahren].

41. Lung irritants, poisonous or similar products designed for purposes of war; installations which are specially designed for their production, storage, or use.

42. Nitrocellulose, and nitroglycerin powder:

a. Gunpowder for guns of all types.

b. Rifle powder, insofar as it is manifestly intended for purposes of war.

43. The following explosives which might form a component of war materials of any type:

a. Nitrogen compounds with three or more nitrogen or nitric acid ester groups at one core with the exception of picric acid and trinitrotoluene.

b. Compressed or fused picric acid.

c. Picric acid in powder form, intended for purposes of war.

d. Trinitrotoluene, recrystallized or with a melting point over 79 degrees or in pressed or cast charges.

e. Trinitrotoluene in powder form, designed for purposes of war.

f. Mixtures of ammonium nitrate and nitro derivatives with more than 25 of one hundred nitro derivatives.

g. Fusible mixtures of nitro derivatives and chlorates or perchlorates with more than 35 of one hundred nitro derivatives.

44. Pressed nitro cellulose in charges for purposes of war; nitrocellulose which is manifestly designed for purposes of war; raw mixtures designed for purposes of war (mixtures of nitroglycerin and nitrocellulose).

45. Detonators and ignitors, if they are manifestly designed for purposes of war.

Article 4

The provisions of Article 2 further cover the following products:

1. Rifles designed for purposes of war, if they have not already been covered by Article 3, section 4.

2. Ammunition for the weapons mentioned in Article 3, section 6.

3. Boilers and main machines of every type of drive, which are manifestly designed for warships or submarine craft of every type, and the auxiliary machines manifestly designed for these boilers and main machines as well as their main parts, if these products are not already covered under Article 3, sections 23*b* or 39*b*.

4. Horse-drawn vehicles designed for purposes of war and their main parts, if these products are not already covered by Article 3, sections 33 or 39*b*.

5. Main parts and semiprocessed parts designed for purposes of war of products mentioned in Article 3, sections 1–38, if these are not already covered by Article 3, sections 39 and 40.

6. Uniforms designed for purposes of war.

7. Draught, saddle, and pack animal equipment and their main parts, designed for purposes of war.

8. *a*. Special war machinery, tools, gauges, templates, moulds, dies (cutting), stamps, upper die parts, and lower die parts which are specially designed for the production of implements of war.

b. Specially assembled groups of machines for the production of implements of war, and the pertaining frame installations.

Article 5

(1) The importation of the products mentioned in Article 4 is prohibited.

(2) For export these products may only be produced and stored in usual commercial quantities required in the course of the regular export business.

(3) The products mentioned in Article 4, sections 3, 7, and 8 may be produced for export only in order to fill actual orders.

(4) The factories which have received orders for the export of products listed in Article 4, section 8, and all other factories are not permitted to make studies on the production of implements of war or to maintain special installations for such studies and experiments. Factories which receive such orders for export may, however, conduct studies required to fulfill these orders, if the studies are not concerned with the production of implements of war which are denied to the German Wehrmacht under the Treaty of Versailles.

Article 6

(1) The provisions of Article 2 and of Article 5, section 4, do not apply to orders issued by official German sources.

(2) The Reich Minister of Economy, with the concurrence of the Reich Minister of Defense, may limit the machinery installa-

tions for the production of products mentioned in Article 3, sections 1, 2, 3*a*, 4*a*, 5, 6, 8, 11*a*, 15, 16, 20, 33, 42, and 43*a*–*e*, in the authorized factories.

Article 7

Recrystallized trinitrotoluene, hexanitrodiphenylamine, tetryl, and trinitrorecorcine may be manufactured for the production of detonators for industrial purposes, and may be exported in quantities established annually by the Reich Minister of Economy.

Article 8

Nitrocellulose and nitroglycerin powder, nitrocompounds with three or more nitro or nitric acid ester groups at one core and phosgene may only be produced in factories for which permission has previously been given by the Reich Minister of Economy. The permission may be given on condition that only a certain number of machines are used. The permission may be withdrawn if the conditions are not complied with or if the production of the products in question does not take place within 6 months.

Article 9

(1) Whoever acts contrary to the provisions of this law will be sentenced to imprisonment up to 6 months, or arrest, or will be fined.

(2) In addition to the sentence, judgment may be pronounced to confiscate and render useless the products concerned in the punishable transaction, even if the products do not belong to the perpetrator or to a participant.

(3) Judgment must be pronounced for confiscation and rendering useless if the following products are concerned:

1. Products mentioned in Article 3, sections 1–22*a*, 23–25*a*, 28, 32, 33, 42*a*, 43*b*, *d*, *f*, *g*, and in Article 4, section 8*a*.
2. Products mentioned in Article 3, sections 25*b* and 26, insofar as they are specially designed for purposes of war.
3. Main parts mentioned in Article 3, section 39.
4. Prepared main parts according to Article 3, section 39, of the products mentioned in Article 3, sections 1–5, 7–12, 15, 16, 20, and 21, insofar as they have reached such a stage in production which would usually render them usable only for purposes of war.

(4) Specially assembled groups of machinery for the production of implements of war must be destroyed, and any equipment required for such machines must be confiscated and rendered useless.

Article 10

For a period of 6 months following the coming into force of this law, its provisions will not apply to contracts concerning the export of products the export of which was not prohibited by the law of 26 June 1921, regarding the import and export of implements of war. However, this applies only to such contracts as were concluded prior to the date of publication of this law and the execution of which was undertaken prior to this date.

Article 11

The Reich Minister of Economy may rule that the provision of Article 1 does not apply to ships of the type described in Article 3, section 23*a*, insofar as the construction of these ships was undertaken in a German shipyard prior to 1 August 1914 by virtue of an export contract.

Article 12

Upon the coming into force of this law, the law of 26 June 1921 for the modification of the law of 22 December 1920 (Reich Law Gazette p. 767), regarding the import and export of implements of war, is no longer in force.

Article 13

This law will come into force on the day following its promulgation.

Berlin, 27 July 1927.

Reich President
VON HINDENBURG

For the Reich Minister of Foreign Affairs
Reich Minister of Justice HERGT

For the Reich Minister of Economy
Reich Minister of Defense
DR. GESSLER

PARTIAL TRANSLATION OF DOCUMENT D–94
PROSECUTION EXHIBIT 124

EXTRACT FROM ARTICLE BY GUSTAV KRUPP IN KRUPP MAGAZINE, 1 MARCH 1942, CONCERNING MAINTENANCE OF KRUPP "AS AN ARMAMENT PLANT" AFTER 1919

"PLANT LEADERS AND ARMAMENT LEADERS"

* * * * * * *

At the time (1919) the situation appeared almost hopeless. At first, it appeared even more desperate if one was not—as I was myself—firmly convinced that "Versailles" did not mean a final conclusion. Everything within me—as within many other Germans—revolted against the idea that the German people would remain enslaved forever. I knew German history only too well, and just out of my experiences in the rest of the world, I believed to know the German man; therefore, I never doubted that although for the time being all indications were against it, one day a change would come. How, I did not know, and also did not ask, but I believed in it. With this knowledge, however—and today I may speak about these things, and for the first time I am doing this extensively and publicly—as responsible head of the Krupp works, consequences of the greatest importance materialized. If Germany should ever be reborn, if it should shake off the chains of "Versailles" one day, the Krupp concern had to be prepared again. The machines were destroyed, the tools were smashed but the men remained; the men in the construction offices and the workshops who in happy cooperation had brought the construction of guns to its last perfection. Their skill had to be maintained by all means, also their vast funds of knowledge and experience. The decisions I had to make at that time were perhaps the most difficult ones in my life. I wanted and had to maintain Krupp, in spite of all opposition, as an armament plant —although for the distant future. I could talk freely only in a very small and intimate circle about the actual reasons which induced me to follow my intention and to adapt the plants for a definite type of production. Therefore, I had to expect that many people would not understand me, that I would perhaps even be overwhelmed by ridicule, which was actually the case—but I never felt the inner obligation for all of my deeds and actions any stronger than in those fateful weeks and months of the years 1919 and 1920. Just then, I felt myself drawn in strongly into the magic circle of a firmly established plant community. I understood the feelings of my workers, who to date had worked proudly for German arms and who now suddenly had to accept

a certain decline of their position as seen from their point of view. It was my obligation to them not to lose hope, but to think of a brighter future.

Without arousing any commotion, the necessary measures and preparation were undertaken. Thus to the surprise of many people, Krupp began to manufacture products which really appeared to be far distant from the previous work of an armament plant. Even the Allied snooping commissions were duped. Padlocks, milk cans, cash registers, track repair machines, trash carts, and similar "small junk" appeared really unsuspicious and even locomotives and automobiles made an entirely "civilian" impression.

After the assumption of power by Adolf Hitler, I had the satisfaction of being able to report to the Fuehrer that Krupp stood ready, after a short warming-up period, to begin the rearmament of the German people without any gaps of experience —the blood of the comrades of Easter Saturday 1923 had not been shed in vain. Since that time I was often permitted to accompany the Fuehrer through the old and new workshops and to experience how the workers of Krupp cheered him in gratitude. In the years after 1933, we worked with an incredible intensity and when the war did break out, the speed and results were again increased. We are all proud of having thus contributed to the heretofore magnificent successes of our army.

* * * * * * *

I have always considered it to be an honor as well as an obligation to be the head of an armament factory and I know that the employees of Krupp share these feelings. Thanks to the educational work of the National Socialist government this is the case all over Germany. I know that the things I have said here about the armament worker in particular hold true for every German worker. With these men and women who work for the cause with all their hearts, with cool heads, and skilled hands, we will master every fate.

PARTIAL TRANSLATION OF NIK–1284
PROSECUTION EXHIBIT 125

EXCERPT FROM ANNUAL REPORT, 1937–1938, OF KRUPP DIREKTORIUM CONCERNING KRUPP FIRM'S READINESS IN 1933 "TO MANUFACTURE WAR MATERIAL IN LARGE QUANTITIES"

"Report of the Direktorium"

* * * * * * *

With the end of the business year 1937–1938, twenty years have passed since the World War. Its unfortunate ending had

fateful effects for us. The "dictates" of Versailles prohibited us from manufacturing armaments and army equipment almost completely and demanded the destruction of machines and installations necessary for their manufacture. Under the supervision of the Inter-Allied Control Commission approximately 10,000 machines, presses, furnaces, cranes, and assembly shafts, over 800,000 gauges, die blocks, devices, and special work tools, as well as the installations of the firing ranges in Essen and Meppen were destroyed. Our firm had to decide whether it wanted to renounce, for all time, the production of war material and continue the enterprise on the basis of the coal mines, the refined steel works in Essen and the foundry in Rheinhausen while discharging all superfluous workers and employees, or whether it would continue employing its personnel with a new production program and keep the shops operating with the production of peacetime products. In spite of numerous doubts and contrary to the advice of outside experts it decided, as trustee of a historical inheritance, to safeguard the valuable experiences, irreplaceable for the armed strength [Wehrkraft] of our nation, and through constant close ties with the works members to keep up the shops and personnel in readiness, if the occasion should arise, for armament orders later on. With this view in mind we chose objects for the new program of manufacture on which the personnel could obtain and improve their experience in the processing and refining of material, even though the manufacture and sale of these products partly entailed big losses. The change-over was made more difficult by the occupation of the Ruhr and its effects. But, after the inflation, the reserves built up by the very cautious evaluation of the property in the Goldmark balance, the proceeds from the coal mines, the Essen steel works and the foundry in Rheinhausen, as well as the renunciation of the payment of dividends, made it possible to overcome the difficulties of this period of time so full of losses.

When in 1933 we were again called upon to manufacture war materials in large quantities, we were immediately ready to do so, and in addition we were able to let other firms profit from our experiences, safeguarded and newly acquired by the use of our capital. Workshops which had not been in operation for years or had only been operating on an insufficient scale were again put into operation and after a short preliminary stage were working at capacity. Recognitions for holding out and rapidly going to work fill us with pride. They prove that the sacrifices of the past safeguarded great values for our people.

After having again abandoned the production of all objects which were only meant to keep our personnel and our plants

occupied, our production program today is a carefully balanced whole in which peace and war production are organically united. The various products have permitted us to obtain important information on the characteristics of steel in the processing stages.

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PARTIAL TRANSLATION OF DOCUMENT NIK-9041 PROSECUTION EXHIBIT 146

EXTRACTS FROM A KRUPP PAMPHLET ENTITLED "THE ARTILLERY CONSTRUCTION DEPARTMENT OF FRIEDRICH KRUPP A.G. AND THE DEVELOPMENT OF ARMY ARTILLERY FROM NOVEMBER 1918 TO 1933"[1]

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[1] The typewritten original contains a printed cover page bearing the inscription quoted in the title. The second page bears the following typewritten notation: April 1941—With some additions of November 1942.

[2] The complete table of contents is reproduced herein to show the extent of the original document. The page numbers listed refer to the pages of the original.

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Introduction

The following data on the history of the artillery construction department of Fried. Krupp A.G., for the period of November 1918 to 1933, were compiled in the spring of 1941, at the request of Wa Pruef 4.[2] Munitions and ballistics were, consequently, not dealt with therein. As this compilation was asked to be submitted within a brief period of time a thorough study of the files was impossible. For this reason earlier surveys and the memory of individual members of the artillery designing department have frequently been referred to. The survey presents only the essentials; supplementation is contemplated.

I. Cessation of Armament Production after the Armistice

The Armistice of 1918 found the Krupp Artillery Designing Bureaus and the armaments workshops at the peak of their efficiency and in full activity.

As late as 8 November 1918, governmental orders had been placed and instructions had been given for the shipment of artillery equipment to the front. In addition, numerous newly developed guns were being designed and in the course of being manufactured.

The revolution and the armistice brought all of this to an abrupt end. Considering it a matter of interest to the Reich government, Krupp endeavored to terminate as quickly as pos-

[1] Howitzer, caliber 210 mm. or larger.
[2] Artillery section, Development and Testing Department of Army Ordnance Office.

sible all unnecessary work on war material. For example, from as early as 9 November 1918, no more semiprocessed iron was pressed, no more shells were cast without there being orders for peacetime equipment on hand as a substitute, the manufacture of gun parts was discontinued on the whole in the foundries and forges.

After consultation with the Wage Earners' and Soldiers' Council [Arbeiter- und Soldatenrat], the authorities withdrew their orders at once. Krupp had to desist from making any deliveries to which it was committed by contracts and orders. At the same time it was demanded that workers—even those of subcontractors—should not be deprived of their living. Where immediate conversion to peacetime equipment was not possible without the discharge of workers, work on army equipment was to be temporarily continued as an emergency measure.

In the beginning compliance with this demand of keeping workers employed on peacetime equipment was possible to a very limited extent only since no orders were on hand and because the conversion naturally was bound to take considerable time also for technical reasons; on the other hand, continued work on war equipment was necessary and even work on Sundays became necessary because the Reich did not possess the great number of guns in usable condition of which the enemy alliance [Feindbund] demanded the surrender. Consequently, the so-called emergency projects covered:

a. Reconditioning of guns for foot artillery of those types which, according to the terms of the armistice, had to be surrendered.

b. Completing the manufacture of such new guns as were almost ready at the end of the war.

During the period between the armistice and 31 March 1919, 192 guns were repaired; by July 1919 an additional 46 guns were repaired. A total of 238 guns.

During the period between the armistice and 31 March 1919, 315 new guns were manufactured, namely 10 cm. gun [model] 17, 13 cm. gun, 15 cm. gun [model] 16, and long howitzer [high-angle].

* * * * * * *

III. Demolitions by reason of the Versailles Treaty, and the Inter-Allied Control Commission

Articles 168 and 169 of the Versailles Treaty provided that all establishments which were engaged in the manufacture, restoration, storing, or the preparation of plans for weapons, munitions, and war equipment of all kinds and were not approved by the

governments of Principal Allied and Associated Powers were to be shut down within a period of 3 months after the date when the Treaty became effective. It was also provided that German weapons, munition supplies, and war equipment which exceeded a certain authorized quantity, as well as all tools and machines used for the manufacture of war equipment—aside from specifically authorized items—were to be turned over to the Principal Allied and Associated Powers for demolition and to be rendered unserviceable. These orders were carried into effect under the surveillance of an Inter-Allied Control Commission (I.A.K.K.), headed by the French General Nollet, in Berlin. On 29 May 1920 the group which had been specially assigned by the Duesseldorf District of I.A.K.K. reached Essen. It was headed by the English Colonel Everett who had a number of English and French officers and officials at his disposition as controllers. Long before their arrival, Krupp had already shipped abroad forged barrel parts which had been finished. Similarly, in Essen, the destruction of war equipment had been commenced so as to salvage at least the huge quantities of scrap for Germany. The Commission continued the work of demolition. The following were destroyed:

1. Forty-two thousand tons of industrial material for barrels, gun carriages, and vehicles; 34,000 tons of industrial material for shells; 1,100 tons of industrial material for fuses.

2. Nine thousand and three hundred machine tools, weighing over 50,000 tons, and more than 800,000 tools and devices, weighing over 9,500 tons.

3. Almost 400 plant installations for the manufacture of war equipment, such as presses, annealing and hardening installations, oil and water containers, travelling cranes, etc. as well as 14 assembly shafts. Into the latter were built 5,000 cbm. of concrete, the composition of which the Commission constantly supervised.

4. Of the firing ranges at Essen and Tangerhuette all the installations serving firing purposes, including the storage depot and railroad yards; most of the installations of the firing range at Meppen. Regulations prescribed to the minutest detail what was permitted to be preserved in the way of foundations, gun-carriage platforms, tank-rear structures, cranes, telephone installations, ballistic equipments etc.

5. At Bottrop the structures and equipment of the pyrotechnics installation, with the exception of the housing structures.

6. One hundred and fifty-nine experimental guns and 1,100 tons of experimental ammunition.

Only exempt from demolition were—

1. The machines, tools, and equipment, required for the manufacture of a very restricted number of guns.

2. Eighteen barrels and 6 gun carriages for the firing range at Meppen; and in addition firing range equipment barely enough to cover the minimum of needs.

3. A few specimens of the exhibits of the artillery museum.

4. A portion of the war equipment for which orders had been placed by foreign states before the war and for which it had not been possible to make delivery—especially three 28 cm. coast howitzers, for Brazil. Their manufacture having been completed when the war broke out, they were requisitioned by the German Government and put to use on the German coast. Now they were being prepared for the original purchaser.

All of the machines whose preservation had been conceded had to be erected on sites precisely designated which could undergo no change.

The uncouth, irreconcilable attitude, especially on the part of the French members of the Control Commission, as well as a widespread network of spies and denunciators made sure that the provisions were carried through completely. One of the higher works' officials had to be discharged because through the exchange of a barrel number he had tried to save a good barrel for Germany. Thus the hands of the firm were completely tied and not even the slightest deviation from the rigid regulations was possible.

The concluding report of the Inter-Allied Control Commission was finally signed on 16 March 1926. The Commission departed. Although this did not yet mean the end of spying—entailing the danger of international complications, or of seeing the works closed and its workers losing their livelihood—this meant, nevertheless, an important step on the road towards freedom.

IV. Restriction of Design and Production of War Equipment by the Versailles Treaty

For long years the above-described extensive demolition of works' installations, machines, tools, and apparatus prevented the firm of Krupp from manufacturing war equipment in any appreciable amount.

Beyond that the Treaty of Versailles and its German executive decrees—more particularly the executive law to the Peace Treaty of 31 August 1919, the publication in the Reichsanzeiger [German National Gazette] No. 163, of 15 July 1921, the publication in the Reichsanzeiger No. 136, of 14 June 1927, and the law covering war equipment, of 27 July 1927—laid down the following restrictions for the manufacture of war equipment:

1. Article 168, paragraph 1 of the Peace Treaty stipulated:

"The manufacture of weapons, munitions, and war equipment of all kinds is permitted only in workshops and plants the location of which has been brought to the attention of and approved by the governments of the Allied and Associated Principal Powers. These governments reserve the right to curtail the number of the workshops and factories."

2. Manufacture was permitted—to Krupp, Essen, for guns of over 17 cm.; to Rheinmetall, Duesseldorf-Derendorf Plant, for guns up to 17 cm.; Rheinmetall, Soemmerda Plant, for fuses and firing mechanisms; Gebr. [Brothers] Thiel, Ruhla, for mechanical fuses; Gelsenkirchener Bergwerks A.G., Bochum, for shell cases; Polte, Magdeburg, for cartridge cases; Wasag, Reinsdorf Plant, for powder and explosives, exclusive of gun powder; and Koeln-Rottweil A.G., Hamm Plant, for gunpowder exclusively, etc. At a later date, Dynamit A.G., Cologne, was designated for gun powder, in the place of Koeln-Rottweil.

3. Manufacture was permitted only on the basis of predetermined and extremely low maximum quantities per year. These amounted, as an example, for the 21 cm. howitzer—the only army gun permitted for Krupp—to 0.16 per year, in other words, one howitzer in about every 6 years.

4. Manufacture could take place only in premises specifically authorized, for which construction alterations could not be carried out without authorization.

5. The manufacture and supply abroad of war material of any kind was forbidden.

By reason of these cleverly devised regulations the manufacture of munitions was entirely forbidden to Krupp, likewise the manufacture of guns measuring 17 cm. and below. In as much as the development of guns and ammunition must be perforce united in one hand, and since, for self-evident reasons, firing experiments with equipment of large caliber could take place only on a limited scale, it was thus made impossible for the works to gather experiences of its own, all progress thereby being prevented.

The gun and munitions workshops were shut down in part, and in part they were equipped for the manufacture of peacetime equipment. For the manufacture of war equipment, the Inter-Allied Commission licensed only two of Krupp's workshops, Machine Construction 9, for gun carriages, etc., Machine Construction 21, for barrels, breech-blocks, and sight-mechanisms. However, the use of only a small portion of the total space in Machine Construction 21 was permitted and had to be separated from the

rest of the workshop by a wall. In Machine Construction 9 likewise the few machines authorized for the manufacture of war equipment were to be assembled in a limited amount of space only. Since this was found to be impossible, they were required to be conspicuously marked as permitted for manufacture by means of huge blotches of white paint. Any manufacture on lathes other than the ones prescribed thus stood out clearly as being in violation of the Treaty of Versailles.

The small amount of gun manufacture still permitted neither warranted maintaining an adequate number of expert engineers nor a force of skilled workers. The artillery designing departments—with a few decreasing exceptions which were at first connected with winding matters up—were partly dissolved and partly given other assignments. The experts on the staff dispersed and, in part, left the firm. Thus, among others, Krupp lost one of its best fuse designers, Herr Valentin Schlaefer who, with the consent of Krupp, went to Rheinmetall-Soemmerda, and still directs the plant to this day. On the basis of an amicable understanding, he was permitted to take with him all the data having bearing on the design of fuses.

On this occasion it should be mentioned that also when the Treaty of Versailles became effective Krupp continued to lend its support with advice and action to such firms as were authorized to manufacture war equipment, thus to assist them in carrying out their tasks.

V. The Krupp-Bofors Relationship

When after the end of the war it became a certainty that, for Krupp, gun production would come to a complete standstill, Krupp concluded an agreement with Aktiebolaget Bofors, a Swedish firm, which made available to Bofors information on Krupp's experiences relative to the production of steel in certain fields and especially of steel for the manufacture of guns, also a license agreement on the basis of which Bofors was authorized to duplicate some types of Krupp's artillery designs insofar as they were not classified as secret by the Reich. Krupp combined with this the intention of benefiting by the experience gathered to that end. Bofors pledged itself at Krupp's request to permit Krupp employees admission to its works at all times and to supply them with all desired information. Together with Chief Engineer Badenheuer, a steel specialist who paid brief visits to Bofors on several occasions, Chief Engineer Daur, an artillery expert, went, as the first liaison man, to Sweden on 1 April 1921. On 1 January 1931 he was relieved by Dipl. Ing. Nill. In the meantime several other officials—especially Mr.

Dietzel, Mr. Frommhold, and Mr. Stock held leading positions there in the field of design.

The experiences which Krupp gathered in Sweden were passed on by it to the Reich Ministry of Defense. It therefore seems necessary to glance for a moment at developments relative to guns which occurred at the Bofors plants in the twenties.

Bofors first took over the execution of several agreements for the delivery of guns for Holland and Denmark since, by reason of the Peace Treaty, Krupp was not permitted to manufacture war equipment for foreign countries. Subsequently the Swedish firm attempted to take advantage of the favorable opportunity to acquire the position in the world market from which the German armaments industry had been excluded as a result of the Treaty of Versailles. It began by copying some of Krupp's light guns and was especially successful with the 7.5 cm. mountain gun "L/20" whose design Krupp, Essen, had newly completed in 1919–1920 and which had then been manufactured in Sweden. It also served as a model for the further development of the Bofors mountain guns.

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As already mentioned, the experience gathered in Sweden was made available by Krupp to the Reich Ministry of Defense. On several occasions Krupp also introduced German officers into the Bofors plant to inspect guns and munitions, and who were present during firing tests. Bofors also made experimental ammunition for armored vehicles which was fired in Sweden in the presence of German officers. Thus the Krupp-Bofors relationship proved beneficial for the further development of the German army's artillery.

In 1935 the contract agreement between Krupp and Bofors was annulled because a new Swedish law prohibited the participation of foreign capital in Swedish armaments firms. The Krupp officials returned to Essen and since then are again working in the artillery designing department.

VI. Agreements with the Reich Defense Ministry of 25 January 1922

We have seen how, by way of Bofors, Krupp could utilize its previous designs and could derive benefit for itself, and thus for Germany, from experiences gathered abroad. In like manner the firm was also endeavoring to prove ineffective, in Germany itself, the unworthy provisions of the Treaty of Versailles, and in some way or other to participate in the gleaning of experience. The same spirit prevailed with the German authorities since they

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could not remain indifferent to the fact that in the largest German armaments works which was responsible at the beginning of the World War for almost all of the gun designs then existing, all of the creative talents were withering and all experiences were to be lost. During the first years after the war an exchange of opinion took place repeatedly on that point. The common wishes and aspirations were finally consolidated in the agreements of 25 January 1922 which, for political reasons, did not constitute an official contract but a gentlemen's agreement between Brigadier General Wurzbacher and naval Captain Hansen, on the one hand, and Director Baur and Director Oesterlen, on the other hand.

These agreements of 25 January 1922 stressed that as a matter of mutual interest it was imperative to draw on Krupp's experience for the continued development of guns of a caliber of 17 cm. and below of munitions and of vehicles, as well as also to make available to Krupp the experiences derived by the Reich Defense Ministry in this field. In this respect the term guns, also included the other items of war requirements pertaining thereto—which heretofore had already formed part of the Krupp field of activity —as well as the pertinent theoretical questions. Krupp made its full cooperation available while the Reich Defense Ministry in its turn promised to have Krupp participate in the further development of the fields forbidden to it. It was therefore agreed—all particulars being exactly laid down—that the Reich Defense Ministry should be authorized to make use of Krupp's drawings and experience in the field of design and ballistics. The Reich Defense Ministry, in turn, pledged itself to keep Krupp informed on all modifications of equipment and ammunition and to ask Krupp's advice incidental to all new designs and particularly conclusive firing tests of any import; Krupp, on the other hand, was to make available to the Reich Defense Ministry all the drawings and experience which came to it from outside.

These most significant agreements of 25 January 1922 are the first step jointly taken by the Reich Defense Ministry and Krupp to circumvent, and thereby to break down, the regulations of the Treaty of Versailles which strangled Germany's military freedom.

VII. Decline and Development of the Artillery Designing Department between 1919 and 1925

1919—The immediate effect of the unfortunate outcome of the war spelled the end of gun designing and production by Krupp, and for the members of the artillery construction department it meant parting from an activity which had become dear to them. The artillery construction department was disbanded. Professor

Rausenberger, its head for many years, had retired after the end of the war and died in 1926. For questions pertaining to artillery, departmental director Dr. Ritter remained; he dealt with the remaining jobs and later took charge of the reconstruction until he retired in 1936.

The departments were very soon given other jobs; design of agricultural machines, motor vehicles, engines, compressors, pumps, hydraulic installations, lattice masts, contact furnaces, locomotives, freight cars, dredging machinery, spinning machinery, compressed air tools, magnetic hoists, electrical apparatus, signaling installations, calendars, cash registers, combination locks, gear transmissions, centrifugal separators, movie projectors, roller bearings, surgical instruments, precision measuring instruments, etc.

In addition to that, winding up jobs were done at first and drawings were put in order, especially so because the personnel could not immediately be fully employed with the jobs that had been added. Very soon they had to devote themselves to the new peacetime material jobs and only a few people were still—partly only from time to time—employed in the continuation of the old war equipment jobs. This comprised, first of all, the solving of some contentious questions which it was proposed to carry further, in order to prepare the ground for resumption of gun production at a later date.

In view of the fact that of such guns as were being developed (cf. section "The development of guns by the end of the World War") the 8.8 cm. test field-gun. Kp. [Krupp], and the light test field-howitzer Kp. M/2 (Z.A.) [timefuse] were finished, the final delivery firing-tests at Tangerhuette in the spring and summer of 1919, were developed into large-scale firing-accuracy tests with warmed barrels. The A.P.K. [Artillerie Panzer Kommission-Artillery Armored Vehicle Commission] also participated in same. Tests were also made with the 3.7 cm. antitank gun using Psgr. [armor-piercing shells] and Spgr. [high explosive shells].

A further job resulted from the former foreign trade: a 7.5 cm. mountain gun, which had been tried out with excellent results in the Netherlands East Indies, was once again worked on because another order from the Dutch was to be expected. Meanwhile, however, the manufacture of arms for foreign countries was prohibited; Krupp therefore, after completion of the design, handed it over to Bofors.

1920–1922. The years 1920 and 1921 were above all a period of retrenchment and demolitions which had become necessary through the Treaty of Versailles and the activities of the Inter-Allied Control Commission. The outer frame was formed by the

internal political chaos, which shook the industrial district with particular force, and which resulted in the bloody Ruhr battles, in the regime of the Communists in Essen and in the cast steel plant which lasted four weeks, and in the evacuation of the Ruhr by the forces of General v. Watter.

In addition, from time to time talks with the local government offices took place about how one could save the experiences of Krupp for the future (compare section "Agreement with the Reich Defense Ministry of 25 January 1922").

In mid–1922, the will towards reconstruction manifested itself for the first time. General Bleidorn, of the artillery Inspectorate, as well as Major Klie, Captain Zwengauer and Baurat Meyer of the Inspectorate for Arms and Equipment (I.W.G.—Inspectorate for Arms and Equipment is the new name for A.P.K.) inspected the light field howitzer (Z.A.) which Krupp had developed by the end of the war. It was decided to modify the design of the gun-carriage, using carbon steels and other raw materials known to the trade, and providing for the simplest possible design of all parts, to permit simplified large-scale production. This work on designing was taken up in Essen, in July 1922, under Dr. Ritter, in spite of the fact that the ban was still in effect. Dr. Heilmann was in charge of the gun-carriage design while the design of the barrel was assigned to the department Thiermann—which department combined what was left of the barrel, breech-block, munitions, test-firing and ballistic table departments, where equipment for peace time use was also being designed.

1923—An abrupt interruption occurred in January 1923, with the arrival of French troops in Essen. Shortly before large quantities of sketches and files had been removed to central Germany for safekeeping.

The work of construction design was now also transferred there, namely first to Grusonwerk, in the middle of February 1923 to Tangerhuette.

The 31 March 1923, the Saturday before Easter, brought for Essen the shooting of 13 Krupp workers, a heightening of the French terror and soon after the arrest of the head of the firm, Dr. Krupp von Bohlen und Halbach, and several Krupp directors. The work on artillery construction was, therefore, discontinued in all Krupp workshops, that means also in Tangerhuette. In May 1923 work started again on the light field howitzer (Z.A.) in the officers club Kummersdorf. In October 1923 it was temporarily completed. The drawings were handed over to the Inspectorate for Arms and Equipment, who handed them on for inspection to the engineering firm Koch and Kienzle in Berlin who were also otherwise employed by that office.

1924–1925—From July 1924, until June 1925, some of the Krupp officials worked in the old barracks at Spandau which used to house foot artillery activities:

a. The modifications proposed by Koch and Kienzle, abbreviated the KuK, were incorporated in the drawings for the light field howitzer (Z.A.).

b. The original blue-prints of the long heavy field howitzer [model] 13, of the 15 cm. gun [model] 16, and of the long Moerser were studied in connection with the proposed new production and were supplemented.

c. For Erla (i.e. light field-howitzer [model] 16 with *E*rsatz-*la*fette) [replacement gun-carriage] a cradle of simplified construction, fitted with a brake, was designed for which the pneumatic recuperator was arranged above the barrel. The lower gun-carriage was designed by Rheinmetall. The direction was in the hands of Inspectorate for Arms and Equipment.

d. For the long, heavy field howitzer [model] 13 a cradle of simplified construction was designed.

In the same barracks work on construction design for limbers was in the hands of Oberbaurat Weber, the former engineer in chief of the Artillery Construction Office at Spandau.

VIII. KuK E. (Koch and Kienzle Development)

On 1 July 1925 a designing office was opened up under the name of KuK E (E standing for "Entwicklung" [development]) at Primuspalast, at the Potsdamer Platz, in premises which were rented by the firm of Koch and Kienzle until the end of 1927. The head was engineer Franz Boeminghaus; deputies, Stock and engineer Heubach; in addition, 16 other Krupp employees. The control was under I.W.G., Colonel Buchholz and his successor Colonel Karlewski. Other participants in the work were: Baurat Meyer, Konschak, and Director Dr. Ritter of Krupp. As a matter of camouflage, salaries were paid by I.W.G. to Koch and Kienzle which passed on the money to KuK E. Jobs done by Koch and Kienzle development section—

a. Continuation of the supplementing and repairing old drawings done at Spandau.

b. Listing of drawings for three variations of the light field howitzer (Z.A.) without springs, with wooden wheels, and various traveling brakes and a further variation with axle springs and steel wheels.

c. Continuation of the work on the reserve carriage—cradle with a brake and pneumatic recuperator placed above the barrel.

d. Construction of reserve carriages for 15 cm. K. [model] 16 and long Moerser. While the department Koch, which was

situated in Essen and which in earlier times had constructed naval and coast gun mountings, changed the construction of these guns for a fixed placing at the coast as requested by the Entente, Koch and Kienzle development section prepared the changing back into mobile spare carriages.

e. Construction of the standard ammunition wagon II (EMW II) in 2 versions, usable with the corresponding fixtures also as observation—and commissary car. Fixing on it mounts for rifles and 1 light machine gun with ammunition. Construction of suitable ammunition baskets and containers. When after the completion of these experiments the Inspectorate for Arms and Equipment made some further requests with respect to observation cars, Krupp withdrew from all further work on it in favor of Rheinmetall.

f. Changing of the construction of the antiaircraft gun [model] 19 with the 7.5 cm. barrel (formerly 7.62 cm.)—

(*a*) For mounting on motor vehicles; this gun was adopted and received the name Kw.G.14.

(*b*) For mounting on a box gun-carriage with chassis as collapsible gun; not adopted.

When at the end of 1927 these jobs had been completed, Koch and Kienzle development section was dissolved and the gentlemen recalled to Essen, where meanwhile the reconstruction of the artillery construction department had been started. Two of the gentlemen, however, remained in Berlin in the offices of the I.W.G. until June 1928 for winding matters up, and in order to supervise the manufacture of the box gun-carriage.

IX. Development of the Artillery Construction Department 1926–1933

In the meantime, the occupation of the Ruhr territory had been terminated in 1925, and the Inter-Allied Control Commission, too, had discontinued its activity in 1926. Up until that time it had not been possible to take up work on design in Essen itself. It had even happened that the desk of one of the department heads had been inspected by the Commission because it was believed that, in disregard of the prohibition he had done work on gun design. After the departure of the Commission one had more of a free hand, but the manufacture of light guns continued to be impossible at Essen. Krupp, therefore, had to be satisfied with designing, then giving its drawings to Rheinmetall for the manufacture of test equipment. Since Rheinmetall always received the same designing order, it was with this emergency solution unavoidable, that occasionally after the design of several trial guns, the models were comparable and led to the designing of

standardized models, which contained important earmarks of both firms.

After the final protocol of the Inter-Allied Control Commission had been signed on 16 March 1926, a construction department for army gun carriages was founded in Essen under Dipl. Ing. Dorn. Barrel and ammunition matters were as before handled by the department Thiermann, which however, was chiefly working for peace materials.

Moreover construction departments for naval guns had again been in existence at Essen since the end of 1925, which in this compilation, however, were not given consideration. In addition there continued to remain in Berlin the KuK E gun-carriage department, under Dipl. Ing. Boeminghaus, under the direct control of I.W.G.

On 1 January 1928, Koch and Kienzle development section joined the artillery construction department in Essen as another army gun-carriage department.

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3. *Summary of a few important developments*

a. 7.5 cm. mountain gun and 10.5 cm. mountain howitzer.—Beginning in April 1926 studies were made for a 7.5 cm. mountain gun with a range of 10 kilometers. Krupp's proposition to take over the Krupp type 7.5 cm. mountain gun L/20, a gun mounted on a box-trail gun-carriage—which meanwhile had been further perfected together with Bofors—if necessary with modifications as requested by the office [I.W.G.], was rejected by the latter and a split-trail gun-carriage was demanded instead. Thereupon a mountain gun mounted on a split-trail gun-carriage, without axle suspension, with firing range of 10 kilometers as demanded, was designed for disassembling into 8 pack loads, with a maximum weight of 120 kilograms. The wooden model was shown in September 1926. The office [I.W.G.], however, dropped the idea of the split-trail carriage for mountain guns. Instead, a box-trail carriage was developed by somebody else after all.

The draft design of a 10.5 cm. mountain howitzer with 8 km. range did not progress beyond the first stages, since 10 pack loads would be required.

b. 7.5 cm. gun on self-propelled carriage.—In view of stipulations laid down in October 1926, a caterpillar-type vehicle was first designed on the rear part of which the 7.5 cm. mountain gun on a split-trail gun-carriage, with wheels and short trail arms, was mounted ready for firing. The design was dropped, however.

After several additional draft designs for various types of vehicles, among them also those of conventional style, one was

submitted in October 1927 which showed a 7.5 cm. gun L/25, mounted in gun-carriage with center pivot, firing with the operator in a horizontal position.

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The designing was completed in March 1930. The first try-out of the gun-carriage took place in November 1930, the proof firing, when mounted on the vehicle in January 1931. There were no incidents. The simple firing by foot, however, was abandoned and replaced by an electric magnetic firing mechanism, worked by the hand-wheel in July 1932.

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c. 7.5 cm. light field gun with split-trail carriage.—After the 10.5 cm. light field howitzer with split-trail carriage, a 7.5 cm. split-trail carriage was developed. Construction of the gun was like that of the light field howitzer but featured adjustable length of recoil and cylindrical spring housing instead of traverse springs. Completion of the test gun by Rheinmetall, works test in summer 1930, delivery October 1930. After the gun had been tested by the troops, an order was placed for an experimental battery of four guns. For this the designing was adapted to mass production, using welding to a great extent. The axle springs were altered and the spring housing was replaced by two plate springs lying parallel to the direction of travel. The axle springs can be engaged and disengaged by the spreading out and closing of the trail arms by means of a flap and chain as in the case of the light field howitzer.

The experimental battery of guns was tested at the end of 1933. Subsequently the car designing department accepted the designing in principle but production was not taken up for the time being.

The gun was not introduced as light field gun [model] 18 until 1938 after the experience gained meanwhile on the light field howitzer [model] 18 had been taken into consideration.

d. 7.5 cm. gun for the "heavy tractor".—Incidental to the creation of the complete tank "heavy tractor" a 7.5 cm. gun L/20 was created for a capacity of 6.65 kilograms for projectile weight and muzzle velocity of 425 meters per second.

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The gun was not introduced because the project of the "heavy tractor" was dropped by the office [I.W.G.].

e. 10.5 cm. experimental light field howitzer Krupp M/2 (Z.A.). —An order for this gun had been placed during the war, an experimental battery had been completed early in 1919.

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Towards the middle of 1922 the gun was inspected by the inspector of artillery and the I.W.G. On this occasion it was decided to change the design of the gun carriage to adapt it to simplified mass production, using carbon steel and other commonly used material for forms as simple as possible. This was done from the middle of 1922 until the end of 1924.

Since July 1925 sketches for three variations of this gun had to be made, unsprung, with wooden wheels and various wheel brakes, one variation with axle springs and steel wheels.

After this work was completed the matter was dropped since the gun-carriage with split-trail had meanwhile established itself also in Germany.

f. 10.5 cm. light field howitzer with split-trail carriage.—After the receipt of the order the first plans were made in May 1926. Detailed designing from January 1928 until April 1929. The gun was mainly designed for welding (pneumatic recuperator, center axle, axle rods, trail arms, trail spades). The disengaging of the axle suspension was still carried out by hand, since it was believed that the disengaging of the axle suspension could not be dispensed with when firing with closed trail arms. The experimental gun was constructed by Rheinmetall because Krupp was not yet permitted to do so. Test firing of the experimental gun September 1930.

After long tests had been carried out in Kummersdorf, test firing on concrete base to determine the durability took place on a fairly large scale in spring 1932 in Meppen. On this occasion the strain on the gun-carriage in action was for the first time measured with the crack-extensometers of the German Research Institution for Aviation. Subsequently the ordnance office adopted this type of gun for introduction into the army as such and placed an order with Krupp and Rheinmetall for one trial battery (5 guns) each according to this system.

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The design Rhm (Rheinmetall) as per system Kp (Krupp) was adopted as light field howitzer [model] 18.

g. Heavy field howitzer [model] 18 and heavy 10 cm. gun [model] 18.—The design for these guns with a universal gun carriage was started September 1926. For the designing of this universal gun carriage the measurements of the howitzer were used as a standard.

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The detailed designing was completed January 1930. The trial gun was constructed by Rheinmetall, the thin walled, high grade cast steel parts were delivered by Krupp. The first test took

place in December 1930. After traveling tests were made in June 1931, a mass firing on iron bases took place in January 1932. On this occasion the trial arms proved too weak. During a later test firing the carriage body went to pieces because the strength of the wall was too weak owing to faulty construction and due to the fact that the position of the core had been changed.

In February 1932 the system of axle springs as suggested by Krupp, which has now been introduced, was accepted. This type has a through axle which is attached in an oscillating position to an oscillating longitudinal pin which again is supported by the axle springs. When ready for action the longitudinal pin is clamped by two pinions. At the same time the use of steel casting was discontinued as such and a riveted sheet metal design adopted instead. In view of the great power and strain the welded design could not yet be employed. The coupling of the barrel and recoil buffer were improved. The quick-loading mechanism and shields were abandoned while the pneumatic brake was added.

The gun was introduced as heavy field howitzer 18 or heavy 10 cm. gun [model] 18.

h. 21 cm. Moerser [model] 18.—The order to develop the Moerser was given on 30 January 1928. Due to the shortage of personnel the work progressed very slowly and had to be interrupted for some time.

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In October 1930 the government agency agreed to the design, especially as regards the ground anchors. In September 1931 the first tests with ground anchors were carried out, for which a long heavy field howitzer [model] 13 was improvised. In December 1931 an order was placed for detailed designing. Subsequently barrel, gun cradle, recuperator, and recoil buffer were designed in detail, first of all to be built into the stand, so that the munition could be tested and the range table prepared. First trial shooting with these parts September 1934.

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XIII. Concluding remarks

The foregoing remarks showed us only weak attempts in the field of gun design for the first years after the World War which aimed at salvaging from the collapse what could be salvaged. Beginning with the middle of the twenties, however, we gradually note the aspiration which becomes more and more pronounced to rebuild, and also to embark on fresh projects. It is true that the guns then developed can only be classed as forerunners; they made an appreciable contribution, however, toward

clarifying opinions and requirements thereby making it possible to meet them, and thus, they have entirely served their purpose. They were followed very shortly afterward by the weapons which were finally adopted. Of the guns which were being used in 1939–1941 the most important ones were already fully developed in 1933; the Moerser was almost completed, and the light field gun 18 also was ready for use. For the equipment which was tested in secrecy the army ordnance office and the industry stood ready to take up mass production, upon order from the Fuehrer.

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PARTIAL TRANSLATION OF DOCUMENT NIK–11625 PROSECUTION EXHIBIT 522

EXTRACTS FROM KRUPP'S ANNUAL REPORT FOR THE FISCAL YEAR 1939–1940, REPORTING UPON PARTICIPATION IN THE ARMAMENT PROGRAM AND MENTIONING FREQUENT CONFERENCES BETWEEN DEFENDANT MUELLER AND HITLER

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From the beginning of the rearmament program, we have, to a great extent, placed our experience, free of charge, at the disposal of subcontractors, both with regard to the necessary installations and production factors, and with regard to the production of guns, in order to permit rapid rearmament on a broad basis. We considered the request to surrender all data which would serve to increase the armament industry's capacity, that is, also in the metallurgical field, to be justified in the interests of the life and death struggle of the German people, and we considered the fulfillment of this request to be a matter of course. But we did take the view that the surrender of such plant secrets and data by which we have attained a special position in a certain field and which would give the firms to which we transmitted this data advantages in fields of production other than those for the Wehrmacht should only be made in return for appropriate compensation. Discussions on this point led to the establishment by the Minister for Armament and Munitions of a committee of representatives of Wehrmacht units and the industry. This committee accepted our interpretation.

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II. Technical Report

a. General—The year under review 1939–1940 coincides with the first year of the war. The development and manufacturing work was, to a great extent, influenced by the exigencies of the war.

As in the World War, the *navy* program made it necessary to transfer production from heavy artillery for the inactivated battleships to medium artillery for cruisers, destroyers and U-boats. Fixed firing mounts and railway gun carriages were developed and manufactured for the heavy barrels which were being completed.

The development of designs for the *army* was speeded up to the greatest .possible extent, and production undertaken without specific testing. Particularly interesting were the schemes for parachute and airborne troops for which a period not exceeding 3 months was allowed to cover development, manufacture, and testing, to prepare them for military use.

Beginning with the month of March of the year covered by the report the Fuehrer repeatedly called Dr. E. Mueller in order to discuss with him in detail the various problems of artillery development. Among other things, he wished for—

1. An increase of range for guns which had been adopted.
2. The creating of heavy, low-trajectory weapons.
3. Gun carriages with restricted mobility for the heaviest calibers.
4. Utilization of booty guns.
5. Provisional mountings for gun barrels within the shortest time possible, and he asked numerous individual questions.

The Fuehrer desired to obtain information directly from Krupp on what was technically possible, and then, having heard the military authorities, to make his decisions.

These conferences produced extraordinarily good results; for example, they led to the following:

1. Tests made by Krupp established that the following increase in ranges is possible: for light field howitzer 18, from 10.7 km. to 12.7 km.; heavy field howitzer 18, from 13.3 km. to 15 km. with a special type of projectile to 16 km.; heavy 10 cm. guns, from 19 km. to 20.8 km.
2. A 17 cm. A-tube was inserted into the Moerser barrel, providing for a range of 28 km. with a special type of projectile 30 km.
3. A number of heavy barrels immovably embedded by the Wehrmacht in the West Wall were provided with movable gun carriages.
4. For the booty guns (115 railway guns and 3,800 field guns, of over 10 cm.) field emplacements were developed, to permit the use of the guns for coastal protection.
5. Emergency gun carriages for numerous booty guns were developed and production started.

For heavy low-trajectory weapons our draft plans for 24, 28,

and 38 cm. guns and for 30.5, 35.5, and 52 cm. howitzer on caterpillar gun carriages—for a single load—were submitted to the Fuehrer; they interested him exceedingly and he ordered that they should be further developed. Draft plans for railway guns with a traversing field of 360 degrees were also submitted to him. These plans also are being developed further and, in part, have been put into effect.

In March of the year covered by the report the Ministry of Armament and Munitions was created under Dr. Todt. Its task was the intensification of the manufacture of armaments and ammunition. In that connection Dr. Todt enlisted the cooperation of the independently responsible offices of industry [Selbstverantwortungsstellen] ; he formed regional armament committees and appointed an armaments advisory board. In that organization Dr. W. Mueller is a member of the Armaments Advisory Board and head of an armament work association [Waffenarbeitsgemeinschaft] in Armaments District VI.

In September the control of arms manufacture ceased to be a function of the armament committees, and was concentrated in a special committee for "weapons". Its direction was entrusted to Dr. E. Mueller, to whom during the preceding summer Dr. Todt had already repeatedly turned on special questions. Through proper channeling of orders and the most extensive exchange of data possible, it is the aim of the committee to increase the production in the more than 3,000 plants which produce weapons.

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PARTIAL TRANSLATION OF DOCUMENT C–156 PROSECUTION EXHIBIT 139

EXTRACTS FROM "THE FIGHT OF THE NAVY AGAINST VERSAILLES, 1919–1935"* CONCERNING PREPARATION OF GERMAN U-BOAT ARM WITH THE ASSISTANCE OF GERMANIA SHIPBUILDING YARDS

Sec–24.9/C–156 Copy No. 274

Service publication No. 15

SECRET

The Fight of the Navy
against Versailles
1919–1935

* More extensive extracts from this report of the High Command of the German Navy are reproduced in the materials published in the "High Command" case, United States *vs.* Wilhelm von Leeb, et al., Case 12, vol. X, sec. VI B 1.

Edited by Captain (Navy) Schuessler

Published by the High Command of the German Navy

Berlin, 1937

M.Dv. No. 352

Preface

The object and aim of this memorandum is to draw a technically reliable picture, based on documentary records and the evidence of those who took part, of the fight of the navy against the unbearable regulations of the Peace Treaty of Versailles.

It shows that the Reich Navy, after the liberating activities of the Free Corps and of Scapa Flow, did not rest, but found ways and means to lay with unquenchable enthusiasm, in addition to the building-up of the 15,000-man navy, the basis for a greater development in the future and so create by the work of soldiers and technicians the preliminary condition for a later rearmament.

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[The materials reproduced below are entirely from section II–4 of this report]

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4. *Preparations for the resurrection of the German U-boat arm*

After the carrying out of the armistice conditions and the signing of the Versailles Treaty, any practical continuation of the

work in the field of the submarine arm was impossible in Germany. In spite of that, it was possible to put the first submarine into service only 3½ months after the restoration of the military sovereignty declared on 16 March 1935, that is on 29 June [1935], and then at intervals of about 8 days to put new submarines continuously into service, so that on 1 October 1935, 12 submarines with fully trained personnel were in service.

On 7 March 1936, during the critical moment of the occupation of the demilitarized zone on the western border, 18 submarines in service were available, 17 of which had already passed the test period and in case of emergency they could have been employed without difficulties on the French coast up to the Gironde.

The explanation for this astonishing fact is given by the following summarizing statement.

Submarine projects for Japan—The Germania shipbuilding yard[1] and the Vulkan shipbuilding yard, after receiving approval from the Admiralty, sold already in 1920 the project blueprints of the German submarine cruisers U 142 and the mine submarine cruisers U 117 to Japan, who took these projects as a basis for the construction of its own submarine cruisers of the same size. The preparation of the construction blueprints and the construction of the first submarines on the Kawasaki shipbuilding yard itself was carried out under the supervision of German submarine constructors[2] of the above-mentioned German shipbuilding yards, in part under the personal direction of the former submarine chief constructor of the Germania shipbuilding yard, Dr. Ing. h.c. Techel. In the trial runs of these submarines, which were the first built abroad after the war, having as sample German objectives, Kapitaenleutnant[3] (retired) Braeutigam (Robert) participated in the years 1925–1928, with the approval of the Admiralty, who in this manner was able to keep his valuable experiences, which he had acquired as member of the former submarine reception commission, up to date.

Founding of the I.v.S. [*Ingenieurskantoor voor Scheepsbouw*] —In 1922, at the instigation of Korvettenkapitaen[4] (retired) Bartenbach and Korvettenkapitaen (retired) Blum, who died a short time ago, a German U-boat construction office was founded

[1] The Germania shipyards (Germaniawerft) were owned by the Krupp firm. See the heading "Accomplishments in Ship Construction" in the Krupp Memo of 9 February 1942, Document NIK–10499, Prosecution Exhibit 491, reproduced in part below in this section. A number of the defendants were officials in this firm after 1933.

[2] When Mr. Kaufman submitted this document in evidence, he stated, reading this passage: "I am changing 'constructors' to 'designers.' " (*Tr. p. 256.*)

[3] Kapitaenleutnant—the equivalent rank in the United States Navy would be lieutenant, senior grade.

[4] Korvettenkapitaen—the equivalent rank in the United States Navy would be lieutenant commander.

as a Dutch firm, "Ingenieurskantoor voor Scheepsbouw" (I.v.S.) in The Hague with the approval of the chief of the Admiralty, Admiral Behnke, through the "Germania," "Weser," and "Vulkan" shipbuilding yards.* Korvettenkapitaen (retired) Blum was appointed commercial director and Dr. Techel (see above) technical director; the number of the engineers and constructors [designers] of the I.v.S. amounted to about 30.

The purpose of this foundation for the Admiralty was to keep together an efficient German submarine construction office and by practical work for foreign navies to keep it in continuous practice and on top of technical developments.

Two submarines for Turkey. In 1925 K. Kapt. Blum, retired, succeeded in getting as first practical task for the I.v.S. the order from the Turkish Navy for the construction of two 500-ton submarines according to the projects of the I.v.S. for the Dutch shipbuilding yard Fijenoord in Rotterdam. But in view of the considerably lower prices of the foreign, especially the French and Italian competition, this was made possible only by the fact that the chief of the Maritime Traffic Office of the Admiralty, Captain (navy) Lohmann, gave a contribution of nearly one million marks [to the I.v.S.].

Entry of the Admiralty in the merger of the I.v.S.—Furthermore, the Maritime Traffic Office stated that it was ready to grant the I.v.S. in needy years an additional contribution up to the amount of 120,000 marks per year, and in return it asked for 28 percent of the stock and the chairmanship in the merger of the I.v.S. This contribution was required but once, namely, at the end of 1927, the payment at that time was made from the winding-up of the Lohmann affairs, after the Reich Minister of Finance

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* In introducing this document in evidence on 10 December 1947, Mr. Kaufman declared (*Tr. pp. 253–254*):

"MR. KAUFMAN: Now, this document constitutes a key document on Krupp's machinations in conjunction with the Navy High Command preserving the German U-boat know-how and tradition. Inasmuch as the naval clauses of the Peace Treaty barred Germany from maintaining and building U-boats, Krupp established a Dutch dummy firm at The Hague in 1922, jointly with two other yards, the 'Vulkan' and the 'Weser' shipyards.

"In 1925 a fourth partner joined the firm. That firm is the I.v.S. firm we referred to in the opening statement. The S stands for 'ship,' the I for 'engineer.' Now, in 1925 a fourth partner joined and that was 'Mentor.' 'Mentor' was the German High Command, Naval Command. It was a direct participation of the German Naval Command in the ownership of this firm.

"JUDGE WILKINS, presiding: You mean that 'Mentor' became a member of the Krupp firm?

"MR. KAUFMAN: 'Mentor' became a member of I.v.S., a stockholder of I.v.S. Eventually, Krupp got to be the 50 percent holder of stock. Now, although C–156, this particular document which has just been marked as Exhibit 139, does not mention 'Mentor' by name, it is identified by the sum of Reichmarks 120,000, which is quoted in this publication as the OKM contribution to I.v.S. In other words, there is some internal proof right within this document that the German Government, through its navy, participated directly in I.v.S.

"JUDGE ANDERSON: May I ask for information? You refer to OKM. Is that the German High Command?

"MR. KAUFMAN: That is the German High Command of the Navy, OKM."

and the president of the Supreme Auditing Court of the Reich had given their consent.

* * * * * * *

Bartenbach, who since 1921 as adviser of the Argentine navy, together with Marinebaurat [naval construction engineer] (retired) Schuerer and Krankenhagen, tried in vain to interest Argentina in the construction of submarines according to German projects, accepted in 1924 a position as naval adviser in Finland.

I.v.S. warship construction in Finland—First of all he succeeded there in having three 500-ton and one 100-ton submarines built in Finnish shipbuilding yards according to I.v.S. projects for the German Navy. The trial runs which in part were under the nautical direction of Oblt. zur See Schottky (retired), and all of which were under the technical direction of the Naval Staff Engineer Papenberg, retired, could be utilized for the first time for the practical training of a small number of German naval and engineering officers in submarine affairs.

* * * * * * *

Two hundred and fifty ton boat in Finland.—In 1930, Bartenbach succeeded also in Finland, in fulfilling the prerequisites for the construction of a submarine corresponding in type to the military requirements of the German Navy. The Chief of the Admiralty, Admiral Dr. h.c. Raeder, after receiving the reports from the Chief of the General Navy Office, Rear Admiral Heusinger von Waldegg, and K. Kapt. Bartenbach, decided to supply the funds required for the construction of the boat in Finland.

* * * * * * *

Preparation for quick assembly—The construction and detailed testing of the boat type was the necessary prerequisite for the fact that in 1933–1935 the parts for U 1 to 24 could be procured by I.v.S. and Igewit long before the order for the assembly was issued and the assembly itself could be prepared in detail, as was actually done while fully preserving secrecy. For this purpose the firm Igewit had rented a big storehouse from the Deutsche Werke Kiel, where the ordered machines, apparatus and assembly parts for 12 submarines were stored. Furthermore, it had ordered the erection of a construction hall at the Deutsche Werke in which, removed from the sight of the outside world, 6 submarines could be assembled at the same time. The individual parts of the 2 flag [ship] submarines U 25 and 26 too were prepared in secret for assembly before the order for assembly was given. Therefore the assembly of these big boats required a period of only 10 months. At any rate, this is a proof of the fact showing how especially necessary this small 250-ton

903432—51——20

submarine type was for the quick revival of the German submarine arm. For a possible quick procurement of additional numerous submarine formations this type retains its importance until a new development comes out.

Training of submarine personnel—In order to restore rapidly the preparedness for war of the new German U-boats, it was not only necessary to make available the submarines themselves, but it was also necessary to provide, as thoroughly as possible, preliminary training for submarine personnel. Already the test runs of the first Finnish 500-ton and 100-ton boats gave us, as mentioned already, the opportunity to start to train some German naval and engineering officers as members of the personnel during the test runs in practical submarine service. The test runs of the 740-ton boat built in Spain and later in Turkey, gave additional opportunity to train German naval and engineering officers practically in the service on submarines. Especially full use could be made of the test runs of the 750-ton boat built in Finland during the summer months of the year 1933 and 1934 for the practical training of a great number of German naval officers and some sergeants first class and corporals of the machine personnel, who were later to do duty on the first new German submarines. Two young navy construction officials who were later to do duty in the new testing committee of the new German submarines also participated as members of the personnel during the test runs in this practical submarine training in Finland.

Sale of the 250-ton boat—It is noteworthy that Bartenbach succeeded in carrying out the construction of the boat and the training of camouflaged German navy personnel without diplomatic unpleasantness for the Reich. Finally, Bartenbach also succeeded in accomplishing that the boat was taken over by the Finnish Navy at the full price, thus without any financial loss to the German Navy.

* * * * * * *

PARTIAL TRANSLATION OF DOCUMENT NIK–12294
PROSECUTION EXHIBIT 140

MEMORANDUM FROM KRUPP FILES, DATED ONLY 12 APRIL, CONCERNING FORMATION OF A DUTCH COMPANY FOR THE PRESERVATION AND COMMERCIAL EXPLOITATION OF U-BOAT OPERATIONS[1]

A Summary of Facts[2]

Subject: Formation of a company for the preservation and consolidation of German U-boat experiences as well as for their commercial exploitation.

Theory: For a German firm it is impossible from Germany to grant licenses to or to accord foreign governments or firms assistance in some other manner for constructing U-boats. That precaution is necessary at least to this extent transpires from the following extracts of the Peace Treaty:

Article 168 says: "The manufacture of arms * * * of war material * * * irrespective of what kind * * * cannot be carried out * * *" and further * * * "all other establishments which serve the purpose * * * or the study of arms * * * whatever their kind, are prohibited." According to this paragraph even a drawing office engaged in the designing of U-boats can be closed in Germany.

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[1] A certificate attesting to the fact that this document was found among documents of the Krupp firm, was attached to the original which was filed with the Tribunal. In explanation, the prosecution stated that it was found in the Kiel offices of Krupp's Germaniawerft (Germania shipbuilding yards). (*Tr. pp. 265–266.*) As to the admissibility of the document, the following discussion arose when it was introduced (*Tr. pp. 261–262*):

"DR. KRANZBUEHLER: *** I do not declare that it did not originate in the Krupp files, if it is properly classified. I do, however, say that this document has no probative value because it does not show who drew it up and who may be made responsible for its contents; nor does this document reveal at what time it was drawn up. We do not know whether it may or may not affect one or the other of the defendants here. We do not know whether it is a draft, or whether it was addressed to any person specifically.

"MR. KAUFMAN: If Your Honors, please. This is one of those documents that will speak for itself and the contents—the very contents in it will indicate, not only its relevancy but also its probative value and indicate implicitly its authenticity. I will, if you wish me to address myself to that, I will point out why.

"JUDGE WILKINS, presiding: Yes.

"MR. KAUFMAN: The subject of this memorandum is the formation of a company for the preservation of German U-boat experiences and it goes right on to project a proposed charter for this company which, of course, was the I.v.S. company, the very company we have been talking about. [See the immediately preceding document, C–156, and footnote.] It goes on to discuss the legal aspects, including express references to the Treaty of Versailles, and discusses whether or not this project would be legal.

"JUDGE WILKINS, presiding: Exhibit 140 will be admitted for whatever probative value it may contain and we will bear in mind, in considering it, the objections that have been made by Dr. Kranzbuehler."

Since the I.v.S. was founded in 1922 (according to Document C–156), the prosecution claimed that "the date of this document is around 1922."

[2] Parts quoted in articles 168, 170, and 179 appear in French in original document.

Article 170: "Exportation of war material, whatever its nature, to foreign countries is prohibited."

When drawings are being described as war material—and if the case arises this is what the Entente will do—new drawings prepared in an "etablissement" [establishment] will certainly be regarded as war material.

Article 179: "Germany pledges herself to take measures * * * to prevent its German nationals from leaving her territory * * * for the purpose of giving military, naval, or aeronautic instruction in a foreign country."

This paragraph also allows of a very wide interpretation—Perhaps even the drawings taken abroad must be considered as being exposed to action by the Entente subsequent to the Peace Treaty. It is true that Holland did not sign the Peace Treaty but the Entente might nevertheless hold German shipyards responsible through the German Government.

This risk must be run, however, if it is at all contemplated to further pursue the U-boat construction. It would therefore at least appear doubtful whether the shipyards can quite openly establish a branch company abroad for the building of U-boats.

Hence, the presentations below are based on the further prerequisite that the company to be formed in Holland must have no traceable connection with the Germaniawerft* [Handwritten] shipyards.

* * * * * * *

Paragraph 2

The purpose of the company is the preservation and further implementation of German U-boat experiences and their commercial exploitation, that is through the preparation of projects, the furnishing of constructional drawings, the sale of licenses, consultations incidental to construction and trials, the procurement of services of individuals who are experienced in U-boat building and operation.

Paragraph 3

For the purpose under paragraph 2 the shipyards make their files and experiences available. All inquiries for U-boats and U-boat material which reach the shipyards will be further attended to by that office.

* * * * * * *

* "Germaniawerft" is crossed out on original document and replaced by "Shipyards".

Paragraph 5

The shipyards make all domestic and foreign protective rights available to that office.

* * * * * * *

Remarks on the above draft agreement

It is proposed that the following appear officially as members of the company: First, a Dutch firm, possibly Merrem and La Porte, or a firm which represents one or the other of the affiliated shipyards; furthermore, Herr B., Dr. Bl., and Herr T. Official title of the company: "Ingenieurbureau" [engineer's office]. Officially claimed objective: preparation of plans and consultation; company form to be such that no Aufsichtsrat is required.

The company must be registered so that the office can deal independently with governments and firms. When engaging in business it will be necessary to explain the situation in the following form: _____

The company has at its disposal the experiences of German firms gained in U-boat construction. When the question of guarantees is broached by a prospective customer the company must be able to say that _____ are its bankers and is in a position to put up financial guarantees.

* * * * * * *

Office space still must be found. Although for the present there is the question merely of the preparation of schemes not of finished drawings, it would nevertheless appear advisable in view of the difficulties entailed by moving to select from the outset office premises which are not too small since rent will constitute a relatively small portion of the expenses. It is therefore proposed that from the start, office space be so calculated that the drawing office can accommodate 12 men. The filing room should be large enough to house at least the drawings, etc., of the Germaniawerft, so far taken abroad, classified in file cabinets, also to hold the drawings of such types which were not built by Germaniawerft, and drawings of valuable projects handled by other shipyards.

* * * * * * *

Question of agents

* * * * * * *

It therefore seems the most practical arrangement for the office and not the individual shipyards to have representatives.

* * * * * * *

[Illegible Initial]
15 April

[Illegible Initial]
12 April

TRANSLATION OF DOCUMENT NIK–11510
PROSECUTION EXHIBIT 323

LETTER FROM THE MINISTER OF AVIATION, 28 APRIL 1938, DIRECTING THAT DELIVERIES TO SPECIFIED COUNTRIES NEED SPECIAL APPROVAL OF THE MINISTER OF AVIATION

The Reich Minister of Aviation and Commander in Chief of the Air Force

LC IV

File number: 66.e.34.11.d (1 B) No. 407/38 II. Ang.

Berlin W 8, 28 April 1938
Leipziger Str. 7
Telephone: 12 00 47

(In reply please give above reference, date, and summary of contents).

[Stamp]

A.K. [Artillery Construction]
30 April 38 No. 62143
answered:

[Stamp]

Noted and taken care of

Express letter

Description of the Zt. Z.S.–30 for foreign countries.
Re letter of the firm of Krupp of 7 January 1938 No. 52217/Grm. and your letter of 25 April 1938–H.

Thiel Seebach Bros.
Ruhla (Thuringia)

In my letter LC IV 1 B No. 407/38 of 22 April 1938 please alter the following:

"Delivery to France, the British Empire, Russia, Czechoslovakia, Lithuania, Spain, Japan, and China needs *no* special approval";

to read:

"Delivery to France, the British Empire, Russia, Czechoslovakia, Lithuania, Spain, Japan, and China needs *my* special approval."

The mistake is due to a clerical error.

By order

[Stamp] File: 10/2

Answered: Cl
Copies to: Gm AB Pf Mue F *Ebh* Da Hn *B Kz Pr*
[Illegible initials] Esch Rah Schi Sh Hi KMB Rff
Spae Cl Ku Ma Goe Qu Ni Stae Gera ZV AZ
2x Meppen Szkz 2x BW Stumm HAStl
M S L RB3x F.*

TRANSLATION OF DOCUMENT NIK-6577
PROSECUTION EXHIBIT 325

LETTER FROM THE REICH MINISTRY FOR AVIATION TO KRUPP, 14 MAY 1938, ON MEASURES TO PREVENT RE-EXPORT OF WAR MATERIAL TO "RED SPAIN AND CHINA"

The Reich Minister for Aviation
and Commander in Chief of the Luftwaffe

LC 6

File No.: 66.e.10. (I 2) No. 1720/38 secret
(When replying please quote above reference, the date, and give a short summary of contents.)

Berlin W 8, 14 May 1938
Leipzigerstr. 7
Telephone: 12 00 47
Telegraphic Address
Reichsluft Berlin.

[Stamp]

K.M. [War Materials Dept.]
17 May 38. No. 63597
Answered:

[Stamp]

Noted and taken care of

[Stamp] SECRET

*The Krupp concern had a rather complicated distribution code for correspondence and intraconcern memoranda and reports. In some instances hereinafter the names of defendants and other officials designated by the letter symbols have been written out for purposes of clarity. In the above distribution code, copies are indicated as going to the following persons, among others: the defendant Pfirsch (Pf), the defendant Erich Mueller (Mue), the defendant Eberhardt (Ebh), Daur (Da), Reiff (Rff), and Goerens (Goe). Copies are also shown as going to various departments.

To Friedrich Krupp A.G., Cast Steel Plant, Essen

Subject: Export of K-equipment*

It has been established that the Cartoucheries and Poudreries S.A., Athens, and the country of Mexico have resold K-equipment purchased from Germany to certain countries, the supply of which has been prohibited for political reasons (Red Spain and China). No deliveries to Greece, Mexico, and other countries affected by the prohibition may therefore be made in future, if there is a danger of a possible resale, as mentioned above.

The following restrictions will therefore apply to the releases sanctioned by me. Deliveries of released K-equipment to Greece, Mexico, and other countries are only permissible if it may be assumed under the given circumstances that a resale to Red Spain or China is not envisaged, and that these countries intend to use the deliveries solely to meet their own requirements. In cases of doubt it is necessary to make inquiries with the LC 6 department of my Ministry.

Insofar as possible, a clause to this effect should be added when signing the contract.

BY ORDER:

Signed: MUELLER
Certified:
[Signed] KLOPFER
Assistant

[Stamp]

Reich Ministry for
Aviation, Central Office
[Stamp] File 10/2

Replied: Cl

Copies to: Gm Agency Berlin *Pfirsch, E. Mueller, F. Eberhardt, Daur Hayn Berlin Chancellery Pr. Armament Sale Section* Bro Esch Rah Schi Sh Hi KMB Rff, *Griesmann, Spae Clausnitzer* Ku Ma Goe Qu Ni Stae Gera ZV AZ Grwk 2x Meppen SzKz 2x BW Stumm HAStl M S L RB F.

* War material (Kriegs equipment).

TRANSLATION OF DOCUMENT NIK-11619
PROSECUTION EXHIBIT 326

LETTER FROM THE REICH GROUP INDUSTRY TO KRUPP, 17 MAY 1939, ANNOUNCING THE PROHIBITION OF DELIVERY OF WAR MATERIAL TO POLAND

Registered

Reich Group Industry

Berlin W 35 Tirpitzufer 56/5
17 May 1939

Stamp
War Material
20 May 1939 30/95131

File No. 4529/G/39

Answered: _____

[Stamp]
Secret!
Top secret

To the members of the Armament Export Association [AGK]
Information Offices of the Armament Export Association

Subject: Exporting of war material supplies to Poland.

In accordance with the decree of the Supreme Command of the Armed Forces W Staff File No. 66f/20/a No. 1468/39 secret of 12 May 1939, no deliveries of war material supplies may be made to Poland.

Heil Hitler!
Reich Group Industry Secretariat:
[Signed] SENKFUSS
[Illegible signature]*

Dr. M/vR
[Stamp]
3 P1—A1
Bearb: [Official Concerned]: DKC

Alfried von Bohlen	Brombacher	Grassmann
Pfirsch	Esphweiler	Koettger
Mueller	Schild	
Eberhardt	Seybolt	
Flinckh	Rahlenbeck	
Daur	Tankhorst	
H	Hincke	
	War Material	
—	Supply	
Kz 2x	Reiff	
Pr		
von Witzell	Rudolph	

* This document was signed by two individuals.

TRANSLATION OF DOCUMENT NIK–11626
PROSECUTION EXHIBIT 327

KRUPP MEMORANDUM, 22 AUGUST 1939, NOTING THAT "ALL EXPORTS TO POLAND ARE TO BE STOPPED IMMEDIATELY"*

Copy

Telephone message from Dr. Steiner of the Foreign Trade Office
Subject: Exports to Poland.

Instructions for the immediate future.

All exports to Poland are to be stopped immediately. Contracts should not be cancelled. Polish customers pressing for delivery to be given evasive answers (such as—consignment not yet complete, or freight car lacking, etc.).

Sales Department II, 22 August 1939
Signed: ARENDS

Copy to: Sp. [dispatch by waterway and to foreign countries], GA [freight handling department], Sales Departments Nos. II and I, Locomotive and Car [RR] Construction, Scaffolding Construction, Gear Sales Department, Automatic Tools, Motor Vehicle Construction Department, Agricultural Machines, Dredger Construction, War Material, *Artillery Construction,* Sales Office, Technical Office, Purchasing Department.

[Ink note] 3 P 1

Schw

TRANSLATION OF DOCUMENT NIK–11627
PROSECUTION EXHIBIT 342

LETTER TO KRUPP STATISTICAL OFFICE, 16 FEBRUARY 1940, CONCERNING AN INQUIRY FROM OKW COUNTERINTELLIGENCE SERVICE REGARDING ARMAMENT MANUFACTURERS IN DENMARK

No. 929 16 February 1940

[Handwritten] KM. [war material] 13/17100 of 19 February 1940

File: 13/1–A1

Bearb. [Official concerned] Grm. [Grassmann]

Copy to: B Kz [secretariat] 2, Grm. [Grassmann]
Fried. Krupp A.G. Statistics Office,
Attention of Dr. Loenne

* Germany invaded Poland on 1 September 1939.

Essen Ruhr

Registered mail

Subject: Denmark

The Supreme Command of the Armed Forces, counterintelligence service, asked us today for information as to what armaments establishments exist in Denmark. We presume that you have data on that subject on hand. Here, we merely know about the firm of Burmeister and Wayn who manufacture high grade Diesel motors, and consequently might also be in a position to manufacture guns.

Through Christensen, our Danish representative, we know there exists a workshop in Denmark which builds 7.5 cm. Vickers antiaircraft guns, for which the initial material is supplied by England. The capacity is said to be very small (one to two guns per year). We do not know, however, what firm is involved.

We should be much obliged to you for informing us at an early date about what data you have available, so that we may advise the Supreme Command of the Armed Forces accordingly.

[Handwritten] KM 17349 of 22 February 1940

PARTIAL TRANSLATION OF DOCUMENT NIK-11178* PROSECUTION EXHIBIT 266

EXTRACT FROM A CONFIDENTIAL MEMORANDUM TO SUPERVISORY BOARD FRIED. KRUPP GRUSONWERK A.G., 19 FEBRUARY 1940, REFERRING TO PLANT ENLARGEMENTS SINCE 1933 AND MOBILIZATION CALENDARS FOR YEARS 1937 AND 1938

[Stamp] *CONFIDENTIAL*

19 February 1940

To the

Aufsichtsrat of the Fried. Krupp Grusonwerk A.G.
attention of deputy vice-chairman
Landrat (retired) Freiherr von Wilmowsky
Berlin W 35
Tiergartenstrasse 30/31

Subject: Delivery schedules and personnel requirements of the Grusonwerk.

On 29 January 1940 under the chairmanship of a representative of the OKW and on 12 February 1940 under the chairman-

* The original of this document as introduced in evidence was not complete, either because the document was incomplete upon capture or because of loss after capture. Therefore, the persons signing the report and any further distribution of the report are not shown.

ship of the chief of the Magdeburg Armament Office, discussions of very great importance to us were held concerning the delivery schedules and personnel requirements of the Grusonwerk. We therefore consider it our duty to submit to the Aufsichtsrat a report on these, and we would like to give a brief review of the course of events hitherto in order to provide a better understanding of the situation.

Immediately after the seizure of power, the navy, as the most powerful part of the Wehrmacht, began with us to equip and expand our factory installations for the production of war materials. In view of our location in the heart of the Reich, favorable from a military point of view, the production of especially important Wehrmacht equipment was entrusted to us from the very outset, and plant facilities for a much greater capacity than would be required for peacetime needs were set up in case of war. As early as 1937, on the basis of mobilization orders which had been received, we calculated our personnel requirements for carrying out these tasks. These labor requirements were laid down exactly in our mobilization calendar, according to dates of entry and trades, and forwarded to the W Wi In XI [War Economy Inspectorate XI] demanding that this personnel be assured. In 1937 and 1938 the plant was still further expanded until early in 1939, after making allowance for a certain production capacity to fulfill export and Four Year Plan orders a total number of 13,600 men, excluding apprentices and salaried employees, were needed for the scheduled execution of all mobilization orders.

The additional manpower comprising approximately 7,700 men was to be allocated to us by the labor office at the outbreak of war in accordance with a time schedule drawn up in the mobilization calendar of 1938, section 2, page 3195, in a definite sequence, and with definite proportions of skilled, machine, and unskilled workers.

* * * * * * *

PARTIAL TRANSLATION OF DOCUMENT D–168
PROSECUTION EXHIBIT 331

EXTRACT FROM MEMORANDUM, 16 MARCH 1940, BY KRUPP'S MR. SEYBOTH ON A CONFERENCE AT REICH MINISTRY OF ECONOMICS, CONCERNING MEASURES TO COUNTERACT SUSPICIONS OF DUTCH MILITARY PROCUREMENT OFFICERS*

* * * * * * *

[Handwritten] 27 a 22 Essen, 16 March 1940

Minutes by Mr. Seyboth of a conference at the Reich Ministry of Economics, Berlin, on 15 March 1940.

Present:

Captain Schottky, of the Reich Ministry of Economics.
Boeck (area executive officer [Laenderreferent] for Holland), of the Reich Ministry of Economics, part of the time
Nill, of Fried. Krupp
Rosskopf, of Fried. Krupp
Seyboth, of Fried. Krupp

Subject: Holland, 10.5 cm. field howitzers, L/28.

We informed Schottky about the attitude taken by Dutch circles as it had been confidentially ascertained by Nill from our representatives during his last visit to The Hague.

[Handwritten] War Material 18447 of 12 March 1940 in file 27/1–1.

We specially pointed out that in Dutch official circles the impression had been formed that shipments to Holland could only be carried out if the raw materials were supplied by the Dutch. They greatly mistrust us, and even more so since the Dutch officers who were to come to Essen to inspect the materials for the 10.5 cm. field howitzer, and who had applied for visas to enter Germany, have not been issued these visas to the present day, although private Dutch individuals had their German visas issued without any trouble. We pointed out to Schottky that the intended inspections were merely intermediary, and that according to contract the shipment of the first sets was not due to be carried out before the fall. Schottky immediately described this step as tactically wrong. Although the policy with regard to the Netherlands transaction was to be a delaying one, the Dutch should on no account become aware of this.

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* The distribution list accompanying this document shows that copies were distributed to the following defendants: Alfried Krupp, Pfirsch, Mueller, Eberhardt, and Kupke.

Therefore, it was absolutely wrong to alarm the Dutch at this juncture by refusing them visas in a case of merely intermediary acceptance.[1]

* * * * * * *

Signed: SEYBOTH

TRANSLATION OF DOCUMENT NIK-12630
PROSECUTION EXHIBIT 261

EXCERPT FROM "KRUPP" PUBLICATION, 15 MAY 1940, CONCERNING AWARD OF "GOLDEN BANNER" AND TITLE OF "NATIONAL SOCIALIST MODEL PLANT" TO KRUPP WORKS

Krupp Newspaper of the Krupp Plant Community

[Photograph]

Krupp receives the "Golden Banner" [title and description of news photo].—On 1 May 1940 the Krupp Locomotive Workshops in Essen were the scene of the ceremonial convention of the Reich Chamber of Labor, in which the National Socialist model plants which had been distinguished as such by the Fuehrer, were publicly announced.

Among these plants was the Fried. Krupp Aktiengesellschaft. Partaking in the ceremony were the Fuehrer's Deputy, Reichsminister Rudolf Hess, and Reichsorganisationsleiter Dr. Ley.[2] Our picture shows the moment in which Rudolf Hess is giving his congratulations for the honors received to Dr. Krupp von Bohlen und Halbach and to Betriebsobmann Wulfmeier. [End of description]

The National Socialist Model Plant of Krupp

The scene of the ceremonial convention of the Reich Chamber of Labor on 1 May 1940, the occasion of the proclamation of the plants which had been distinguished as model plants by the Fuehrer, was not the Reich Chancellery this time, as had previously been the case, but a section of our own Krupp Locomotive Factory, memorable as the scene of that great Fuehrer rally of March 1936. From all the Gaue [party districts] of the Reich came the representatives of the previously designated National Socialist model plants, and the plant leaders (Betriebsfuehrer) and Obmaenner[3] of the almost 100 newly distinguished plants

[1] The Netherlands was invaded by Germany on 10 May 1940.

[2] Dr. Robert Ley was indicted as a defendant in the case before the IMT, but he committed suicide in Nuernberg prison before the trial began.

[3] "Betriebsobmaenner" were officials of the German Labor Front, one of the Nazi organizations headed by Dr. Ley.

with their Golden Banners. They occupied the sides and one end of the front, the latter together with the speakers' platform having been very festively decorated by the skillful hands of the Krupp workers. Indeed, one cannot easily imagine a more suitable setting for the bestowal of honors upon labor than this enormous factory hall with its outlines almost disappearing from sight, with the crisscrossing but sublimely harmonizing lines of the pillars, girders, cranes, roofbeams, and the completed and partly completed locomotives—the whole immersed in the light, effectively diffused through the glass roof, of a glorious morning in May.

Numerous banners and flowers, a profusion of green, many faces animated with joy. Numerous guests of honor, and next to them the assistant shop stewards and DAF [German Labor Front] wardens of the Krupp works, assembled at about 1100 hours, as the Fuehrer's Deputy, Reich Minister Rudolf Hess, Reichsorganisationsleiter Dr. Ley and Reich Minister Dr. Todt entered the hall with their escorts and to the accompaniment of marching music, after they had been welcomed at the entrance by Dr. Krupp von Bohlen und Halbach, the three members of the Direktorium and the Betriebsobmann. Capoferri, the President of the Italian Association of Industrial Workers and of the Dopolavoro Leisure Time Organization, participated in the celebration as the guest of Dr. Ley, along with a number of escorting personnel.

After the "Essen Trumpet Call" our proven Krupp band of wind instruments under the baton of Leader Schnitzler, plays Paul Hoeffer's "Musik zum Frankenburger Wuerfelspiel," a unique composition which is especially suited to the occasion because of its solemn character. Next, Amtsleiter Schroeder, on behalf of Reich Amtsleiter Dr. Hupfauer, reads the names of the plants which have recently received the awards. The name of Krupp leads them all. Every fellow worker who had the privilege of being "in on it" must have felt his heart beat faster with pride and joy at this moment.

The stirring address by Rudolf Hess, the Fuehrer's Deputy, is known to our comrades from the daily press. It was characterized by a most timely political note (settling final accounts with the Jewish-plutocratic-democratic world) and by doing justice to young German socialism, which represents social justice as the foundation of national strength. At the conclusion of his address Rudolf Hess proclaimed the beginning of the fourth battle for production of the German plants.

Thereupon he honored the new National Socialist model plants. His first handshake was for Dr. Krupp von Bohlen und Halbach,

as the supreme chief of the firm and the Krupp Works, and for Betriebsobmann Wulfmeier. Dr. Ley presented the plant leaders with the certificates of honor, signed by the Fuehrer. Then he added the concluding words including "Sieg Heil" for Adolf Hitler.

"Krupp has the Golden Banner"—that is the talk of the day in workshop and office, above ground and below, between workmen and employees, in the factory and at home. There is no fellow worker who is not proud of this great honor. Rudolf Hess himself mentioned in his speech that the Krupp Works had very early stood out in many ways in an exemplary fashion, and he paid his respects to the memory of Alfred Krupp in words of deep feeling. Mr. Krupp von Bohlen, too, in his announcement to the employees, copied on the next page, makes an emphatic reference to the great social traditions of the Krupp firm.

* * * * * * *

[Photograph]

During the speech of Rudolf Hess [title and description of photo].—Betriebsobmann Wulfmeier stands under the speakers' platform with the recently awarded Golden Banner; in the foreground, Krupp workers, shop stewards and DAF officials.

[Announcement of Mr. Krupp von Bohlen, Sr.]

To the men of the Krupp Works.—The Fuehrer has awarded the Fried. Krupp Aktiengesellschaft the "Golden Banner," which distinguishes the Krupp Works as a "National Socialist Model Plant." I received the banner from the hand of the Fuehrer's Deputy, Reich Minister Rudolf Hess, on the occasion of the memorable ceremony in our locomotive factory on 1 May 1940. I share with the entire personnel of the Krupp Works a pride in this award. It is in honor of a social-political attitude which, while having its roots in a 128-year-old tradition, has developed organically so as to fit into the new times, into the National Socialist Germany.

The "Golden Banner" will be an ever-present symbol for us of our solemn duty to strive with unremitting efforts for the common good of the Krupp workers.

Heil Hitler!

[Signed] KRUPP VON BOHLEN UND HALBACH

[Translator's note: Titles of two news photos given below]

[1] A view of the section of the locomotive factory in which the ceremony took place.

[2] The guests of honor.—First row (from right to left): Rudolf Hess, Dr. Ley, President Capoferri, Dr. Krupp von Bohlen und Halbach, Dr. Todt, a general, Police President Guten-

berger, Oberbuergermeister Dillgardt; second row (from left to right): Director Alfried von Bohlen und Halbach, Professor Dr. Goerens, Director Dr. Loeser (Krupp Direktorium); at the extreme right, Deputy Gauleiter Schlessmann.

PARTIAL TRANSLATION OF DOCUMENT NI–764 PROSECUTION EXHIBIT 467

EXTRACTS FROM A KRUPP MEMORANDUM, 16 JULY 1940,* SUMMARIZING ACHIEVEMENTS IN RESEARCH AND CONCERNING PRODUCTION OF WAR MATERIALS AND THE NECESSITY OF INCREASING PRICES

[Stamp] Secret

1. This is a State Secret within the meaning of Article 88 of the Reich Penal Code
2. To be forwarded under seal only, if mail channels are used as "registered" letter
3. To be kept in safely locked deposit as addressee's responsibility

Subject: The achievements of the firm Krupp in the conversion of their production for war purposes, and the necessity of increasing sales prices [Nutzenzuschlag] for the upkeep of the works

The following details have been compiled at the instigation of the High Command of the Armed Forces, price control (Directorate). They are to provide the justification for the increase in sales prices which the firm Krupp needs for its manufacture, as this increase in sales prices is the only means by which Krupp is enabled to maintain the highest technical standard in its output. Matters of special secrecy are intentionally not dealt with here, or are only indicated in passing.

Without government orders, and merely out of the conviction that one day Germany must again fight to rise, the Krupp firm has, from the year 1918 to 1933, maintained employees and workshops and preserved their experience in the manufacture of war materials at their own cost, although great damage was done to its workshops through the Versailles Treaty, and employees and machines had in part to be compulsorily dispersed. The conversion of the workshops to peacetime production involved losses, and as at the same time the basic plan of a reconversion to war production was retained, a heterogeneous program was the result, the economic outcome of which was necessarily of little

* Table of contents attached to this memorandum is dated 18 July 1940 and is reproduced on p. 312.

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value; but only this procedure made it possible at the beginning of the rearmament period to produce straight away heavy artillery, armor plate, tanks, and such like, in large quantities. The material losses which the Krupp firm is bearing amount to several hundred million marks. They by no means appear to their full extent in the published balance sheets, but have been covered by internal adjustments with the help of hidden reserves, resulting from a cautious evaluation of the gold mark value, and also with the help of profits resulting from the coal mines, the foundry at Rheinhausen, and the fine steel works at Essen. Furthermore, from the year 1918 until 1935 the shareholders have foregone all dividends.

An evaluation of the Krupp firm must take into consideration that it is above all a development firm. Its workshops are not intended for any special types. In the planning, far more attention has always been paid to the fact that Krupp must be in a position to put into practice immediately every improvement in construction, and also to undertake increases and alterations in caliber at any time. It was therefore necessary to ensure that the machinery could also be used for larger pieces. Thus, the firm is often compelled to work with machines which are too large and therefore costly. Since, furthermore, the workshops constantly concern themselves with the individual manufacture and improvement of new types and models, alongside the normal processes, considerably higher costs necessarily arise, than in the case of an enterprise which engages merely in the production of one particular type. It is obvious that this means the workshops require extensive equipment and quite different proportions than would be necessary in the case of specialized factories. As a particular advantage for the German armament potential it should be mentioned here that in peacetime the works supply considerable quantities of army equipment for export, and in this way an additional mobilization capacity is obtained, the costs of which would, in a case of emergency, have to be borne by the works themselves.

* * * * * * *

The following description of a few products of our steel works which are of present day importance may indicate the success of our work for the armament manufacture and the armament economy.

The knowledge concerning the development, right until the outbreak of the World War, of Krupp's *armor plating* has become common property in the technical world through the speech of Ehrensberger delivered on the Iron Foundries' Day 1921. Until then ship armor plating for the German Navy was produced apart from the Krupp firm only by the Dillinger foundry works which,

however, used the Krupp patents for this. At the end of the twenties we succeeded in developing new qualities of armor plating which are unrivaled, as firing tests at home and abroad have proved. In this connection it should be noted that in this case it has been possible to raise the quality while at the same time making a saving in nickel possible. In addition, decisive progress was achieved in the joining of less heavy plating by *welding,* namely by developing austenitic electrodes and making experiments in collaboration with the dockyards.

Protection shields as well as armour sheeting for light armaments and for land vehicles we likewise developed by using the least possible amount of scarce metals. In this connection we have further discovered new surface hardening treatments and shell proof welding seams.

The production of heavy and very heavy cast tank cupolas and gun turrets for land fortifications was only possible, thanks to our experience, in the manufacture of armor plating (composition and heat treatment) and to our ability in the technical field to deal with large castings.

The production of *gun barrels* is, since the time of Alfred Krupp, decisively determined by the quality of material and forging technique. The manipulation safety value of our heavy naval barrels lies in the development of materials of the greatest toughness, similarly as in the case of the armor plating, and in our experiments which paved a new way in solving the question of flaking. The use of light exchangeable tubes was only made possible by changing over to the use of a steel with a very high ductility limit.

In the construction of gun mounts we paved the way for welding in our own and in other workshops, by the production of types of steel which are not susceptible to welding and which, thanks to their high grade strength and to their composition which does not require much scarce material, are becoming increasingly popular.

By thorough tests in the field of the development of materials and their heat treatment, we were able to improve considerably the force of penetration of our projectiles, whereby the same maximum results have been achieved also with steel free from nickel and with the largest projectiles. Besides grenades of a large caliber made of the highest quality steels, the subcaliber cores of bullets made of cemented carbide metal should be mentioned, the prominent efficiency of which has secured an important advantage for our armed forces.

Our steel works supply the navy with parts of torpedoes, periscope tubes and parts for the driving machines, to mention only the most important products.

Up to now we were sole suppliers of *torpedo compressed-air containers* with bottoms, water chambers, etc. Quite recently the firms Reisholz and Mitteldeutsche Stahlwerke at Groeditz have been included in the production because of the increased demand. In this field of production two important advancements have been made recently: On the one hand we have succeeded in substituting the high nickel content steel, which was used formerly, by steel not containing nickel and, on the other hand, by changing the process of production, have been able to reduce the waste of steel, and thus also the quantity of steel required, and brought about a reduction in costs.

Among our special products we furthermore count the *periscope tubes* for submarines. Instead of using steel containing 25 percent of nickel as formerly prescribed for these tubes by the navy, we are using now our stainless steel V 2 A Extra and achieve thereby on the one hand a greater resistance to corrosion and to sea water and on the other hand, save two thirds of the requirements of nickel. At the request of the naval administration two plants situated in Upper Silesia are now also engaged in producing periscope tubes of the same material.

The parts of ship engines which we supply are of the most difficult kind and are, in many cases, as far as technique of forging or casting is concerned, of a standard not achieved by other works. Apart from propeller shafts, shaft stands, piston rods, turbine rotors, parts of gearing, etc., supplied by us for decades also for the construction of merchantmen, only a few products which are of importance for the navy may be mentioned; *our crankshafts and pressed cylinder liners* for large size Diesel engines as well as the tenstroke case hardened *shaft for speedboats* for which we are the sole manufacturers. As casting products, mention should be made, besides turbine and motor casings, of our *ship propellers of stainless steel* which, as compared with bronze, is a material with a low alloy-content.

In this connection our steels with *high temperature resistance,* the development of which has been particularly furthered by us, deserve mentioning as only through these the weight and space-saving elastic high-pressure steam drive was made possible.

As far as the air force is concerned we consider that the most valuable gain it has derived from our steel workshops is the production of the *airplane crankshaft.*

The quality required of airplane crankshafts is extremely high both as regards material as well as exactitude of finish. Therefore, it may well be said that, in comparison with the airplane crankshaft, there is hardly another Krupp product that has required so much work both in regard to material and technical

method of production. A lengthy development was necessary for the composition of material, for the process of forging and for the heat treatment in order to achieve the high-grade quality which is demanded of the crankshaft today. We were the first to carry out the production of surface-hardened and case-hardened as well as nitrate-hardened airplane crankshafts. At present, following our own proposals, we are leading in the production of crankshafts free of nickel and molybdenum i.e., free of scarce materials. On the other hand, the high-grade quality required of crankshafts and the expensive equipment that had become necessary in the course of time for manufacturing and testing purposes, was not balanced by an adequate demand. For years, only the export possibilities to Japan and Russia made possible a limited production and the retention of the product's technical standard. It goes without saying that this trend of development entailed large financial sacrifices.

* * * * * * *

The *Renn procedure* developed by our Gruson plant belongs in the field of supply of metallic raw materials. For the processing of *low acid containing iron ores* we have, by means of a major experimental plant at Essen-Borbeck, developed this method to the production stage. The plants set up in Japan have proved to be quite excellent. The procedure is now to be applied also in the Salzgitter area. In the process of *extracting nickel* from nickel containing ores of our Frankenstein pit, Germany's only nickel deposits, the Renn procedure is also used in order to obtain a higher percentage of nickel from ores of low nickel content. We have, in addition, constructed a ferro-nickel plant for the purpose of processing low-content foreign nickel ores. Today both are the backbone of our nickel supplies.

Any improvement of efficiency in the field of metal cutting is to be valued in relation to the decisive importance of the mechanical workshops for military and economic armament. In this respect, we can, above all, point to our achievements in developing the manufacture of *cemented metal carbide* (Widia) and *carbide-tipped tools* and our leading position in this field. The use of these tools reduced the processing time to an extent never thought possible (for instance, during the war 1914–1918 the turning of a certain grenade with high speed tool steel required approximately 220 minutes; the introduction of Widia enabled the construction of automatic machines which did that work in about 12 minutes). Modern *production of grenades* without Widia is, therefore, unthinkable. It was through the introduction of Widia that, in general, an appreciable reduction in the cost of metal-

processing was achieved, which was of most far reaching benefit to the Reich in connection with its armament orders. A further point for consideration is that a Widia tool, in relation to its performance, requires an appreciably smaller amount of imported raw materials than high speed tool steel. In this way the German high grade steel industry was relieved of a great burden. The advantage that the German armament capacity has gained over the foreign countries through the introduction of Widia as working material can scarcely be overestimated. In Germany, for instance, the production of cemented metal carbide, in relation to one ton of crude steel, is at present 20 times as high as in America. This higher consumption of cemented metal carbide in Germany is due to our research work and our striving for progress over many years, as well as to our cautious price policy. Hardly less important is the increase in efficiency brought about by the use of carbide-tipped tools in deep well drilling, in the mining industry, in the processing of light metals and synthetic materials.

* * * * * * *

The effective range of the guns developed for the army has been increased by enlarging the elevation and the extent of traverse. The extent of the traverse of the *21 cm. Moerser* for instance has been increased from 4° to 360°, simultaneously improving thereby the mobility (rate of march approximately 50 km. in contrast to 4 to 6 km. of the howitzers of 1914–1918). The guns, being altogether built for power traction, must be equipped with a complicated axle suspension, which is disconnected at discharge. The army guns, too, are equipped with interchangeable tubes, permitting an exchange right behind the front lines. Similarly remarkable progress has been made in the field of precision at discharge partly through the composition of the charge, and partly through improved control of the recoil effects (in the cases of some guns by changeable barrel recoils, in others, for instance in the case of howitzers, by a double recoil of barrel and top carriage). Despite a considerable increase in range, the dispersion could be reduced a good deal.

It is unnecessary in this connection to make mention of every single type of gun, even of those of the heaviest kind, which are at present under construction and in development.

Above all, Krupp is performing *pioneering work in designing and experimenting* and transfers all practical knowledge and construction and work-shop drawings to other firms, who then produce the individual guns in series under a license agreement. These firms are furthermore given *technical assistance,* because we furnish them with manufacturing schedules, in which every

single operation is described, as well as with drawings for tools, fixtures, and gauges, so that the licensees can take up mass production without incurring any expenses for the period previous to production costs and for further development, which are borne by Krupp alone.

The first *three-axle cross country cars* were developed by Krupp and served for a long time as model to all firms supplying cross country [reconaissance] cars to the army. At the suggestion of the Army High Command (OKH), Krupp started 10 years ago with the construction of *air-cooled Diesel engines,* and developed it successfully. Today there are more than 20,000 air-cooled engines in the armed forces (Wehrmacht) alone. Air-cooled engines have the big advantage of being always ready for use, even under very low temperatures, and of not having a radiator that can be damaged easily by bullets or shell fragments. As we were informed by the Army High Command, these motorized vehicles proved to be especially efficient during the campaign in Poland.

The *first tanks* were constructed by Krupp and the latest tank developed by Krupp, viz, type PKW IV, gained particular distinction during the campaign in Poland. There have been surprisingly few breakdowns.

Fortifications for the border defense line (cupolas and casemates) of latest construction were first developed by Krupp after the war. The experience gained thereby served as basis for the organization of the present system of fortification. It would have been impossible to carry out the required tasks, had Krupp not been able to fall back upon its experience in the manufacture of armor plates and upon its foundries. In this instance also, drawings and experience were made available to a number of licensees.

In addition, special mention should be made of the *achievements in the construction of submarines.* It would not be exaggeration to designate the Germania shipyard as the cradle of German submarine construction. The Diesel engines for submarines have always been in a class by themselves, and have proved to be especially reliable and steady during operations in the front lines, so that these engines are also used today by other shipyards. The quality of submarine construction was in evidence most clearly when one of the submarines built by Krupp, after being submerged for over 24 hours at a depth thought impossible up to then, yet was still able to go home under its own power. In this experiment a disproportionately lower depth was attained than that of the existing world record. A special commendation was issued by the Navy High Command, (OKM) testifying to the

high quality of Krupp's submarine construction demonstrated in this feat. This experience in the construction of submarines and engines has now been passed on to other shipyards by way of cartels under the leadership of the Germania shipyard, in order to expedite the development of the submarine fleet for the present war.

All the achievements listed in this outline have been possible only because Krupp, without considering the cost, made available to its research institutes and plants large funds for research, development, and experiments.

In addition to research institutes of its own, Krupp maintains vast construction centers and two costly *test firing ranges.* The persistent gathering of experience between 1918 and 1933 and the further development of all the lines described above has only been possible because Krupp put aside the need for the renovation of his plants in favor of these requirements. The amount that must now be spent continually on renovation work for these partly old installations is so great that it is a matter of constant concern to Krupp whether its manufacturing installations can keep up with the progress of engineering and science.

A curtailment of the technical installations of the firm of Krupp as far as research and development is concerned would therefore be of inestimable consequences for Germany's war and peace potential. This is the reason why an adequate increase in sales price is required by the Krupp enterprise. Only by such means will it be possible to maintain the present productive capacity also in the future.

[Stamp] FRIED. KRUPP
Aktiengesellschaft

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18 July 1940

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of the [this] special report on: Achievements of the firm Krupp in connection with the activation of the armed forces etc.

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TRANSLATION OF DOCUMENT NIK–755
PROSECUTION EXHIBIT 468

LETTER FROM REICH MINISTERIALDIREKTOR CEJKA, TO DR. GOERENS OF KRUPP, 9 SEPTEMBER 1940, CONCERNING KRUPP'S RESEARCH AND DEVELOPMENT FOR THE ARMED FORCES

Ministerialdirektor Cejka Berlin, 9 September 1940

Chief of a Department [Amtsgruppe] in the Reich Air Ministry

[Handwritten note] copy to Mr. Krupp v. Bohlen

Distribution list: [first name illegible]

Houdremont
Schroeder
E. Mueller
Pfirsch
Eberhardt

To: Professor Dr. Ing. Dr. phil. h.c. P. Goerens

[Handwritten] n.R.

Essen
Gusstahlfabrik

* Further reference to the relation of the Germania shipyard to submarine construction is contained in the Document C–156, Prosecution Exhibit 139, reproduced above in this section.

Dear Professor,

Thank you very much for kindly transmitting to me a copy of the compilation worked out for the High Command of the Armed Forces concerning preliminary work of the firm Krupp in the fields of research and development within the sector of the armed forces.* This compilation is not only a proud confession of successful work performance, but also represents a concise, good survey on the far reaching results of this meritorious work.

As far as I am concerned I am willing to use it for the working field entrusted to me.

With kind regards

Heil Hitler!
Very truly yours
[Signed] CEJKA

PARTIAL TRANSLATION OF DOCUMENT NIK-6576 PROSECUTION EXHIBIT 466

EXTRACTS FROM A MEMORANDUM BY DEFENDANT EBERHARDT, 18 JULY 1940, SUMMARIZING KRUPP'S CONTRIBUTIONS TO THE REARMAMENT OF GERMANY

GF. [Gusstahlfabrik] 18 July 1940

Subject: Our letter AKS No. 33970 dated 3 July 1940, directed to the Reich Minister for Armament and Munitions.

1. It was my intention to submit the above-mentioned letter to Reichsleiter Saur, and at the same time give him explanatory statements concerning the conduct and the achievements of the firm Krupp after the catastrophe of 1918 till 1933;
concerning the initiation [turning over of information to] of finishing firms [Nachbaufirmen] by Krupp since the start of the rearmament and the significance which this initiation had for the quick enlargement of the armament capacity of the Reich;
concerning the position of our works as a development firm;
concerning the adjustment of price control with regard to compensation for construction and manufacturing orders etc.; and
also to give a verbal reason why we could not transfer certain practical knowledge to a third party without receiving compensation.

* * * * * * *

* Reference is made to Document NI-764, Prosecution Exhibit 467, extracts of which have been reproduced immediately above.

4. From the start of the rearmament we have initiated into the manufacturing process those firms which had been designated by the Army Ordnance Office for the finishing work of products manufactured by us, through surrender of precise manufacturing plans, plant tool diagrams, plant inspections, and other information based on experience, that is concerning the following equipment:

3.7 cm. gun for combat cars
5 cm. gun for combat cars
7.5 cm. gun for combat cars
7.5 cm. heavy antitank gun
turret for tanks ZW 38
heavy field howitzer 18
heavy 10 cm. gun 18
gun carriage and limbers, heavy field howitzer 18 and 10 cm. gun 18
21 cm. mortar 18
gun 5.

Owing to the fact only, that the firm, acting on its own initiative and believing in a revival has, since 1918, retained at its own expense its employees, practical knowledge and workshops for the manufacture of war material, was it in the position not only to produce war material in its own plants as soon as called to do so, but to initiate other firms which were not familiar with the manufacture of war material, and therefore contribute to the enlargement of the armament capacity.

This has shown particular results as regards the heavy field artillery which is the backbone of the army. The firm has passed on its practical knowledge to the so-called finishing firms without charge, so that it has acted in a generous manner from the beginning.

5. The firm, however, is not in a position to apply the method of transfer without charge generally.

* * * * * * *

6. The attached memorandum* provides a good survey of our firm's activity in the field of development. It is stated on page 13 below: "Through the use of hard metal tools it was made possible to reduce the working hours to an unexpected extent (for example the turning out of a certain grenade with high speed tool steel took about 220 minutes during the war of 1914–1918. After the introduction of Widia it was possible to construct automatons which accomplished the same work in 12 minutes.). Therefore modern production of grenades is inconceivable without Widia."

* Document NI–764, Prosecution Exhibit 467, reproduced above in this section.

The increase in production with the use of Widia compared to high speed tool steel is about 2½ to 3 times more under identical conditions (machine of the same kind). The exact machine working-time in the use of Widia is about ¼ of the time required in the use of high speed tool steel, that is an increase 4 times in output. The stability of Widia is 4 times as great as high speed tool steel.

7. The problem of compensation for the passing on of practical knowledge cannot be considered by itself but must be viewed in connection with the compensation which the firm of Krupp will receive for the rest of its achievements.

* * * * * * *

The turnover of our K.M. department (artillery equipment for the army and navy, tanks, armored turrets for field fortifications, munitions, not to mention armor plates for ships, motor vehicles, torpedo boilers, Widia, automobiles, etc.) amounted to approximately 290 million Reichsmarks during the last 5 years, the net profit amounted to 8.66 million Reichsmarks which is equivalent to 3 percent of the receipts after taxes have been deducted. The net profit including the amounts written off amounted to 21.7 million Reichsmarks. At the same time investments were made amounting to 36.4 million Reichsmarks which were taken from own funds and from credits. (Expenditures! the approved credits amount to about 45 million Reichsmarks.) Not included in this amount are the investments of the preparatory and auxiliary plants and the firing range Meppen, therefore only the manufacturing plants and the firing range Essen; Meppen requires the amount of 12 million Reichsmarks in the near future (preliminary estimate) without the increases in costs resulting from the war.

[Signed] EBERHARDT

PARTIAL TRANSLATION OF DOCUMENT NIK-12315
PROSECUTION EXHIBIT 465

EXTRACT FROM A KRUPP MEMORANDUM BY JOHANNES SCHROEDER,[1] 18 JULY 1940, REFERRING TO FINANCIAL SACRIFICES MADE BY KRUPP FOR THE REARMAMENT PROGRAM PRIOR TO 1933

Essen, 18 July 1940

Considerations for the Conference with Minister Todt[2]

1. Without a state contract, Krupp kept up its personnel, workshops, and experiments from 1918 to 1933 and consumed for this purpose not only the total profits from its coal mines and steel works, but also large hidden reserves entered on the first gold mark balance sheet from the profits of the pre-World War years. According to the assessment investigation carried out for the price commissioner, the loss of assets suffered in these years amounts to about 300 millions of Reichsmarks. Against this, however, Krupp was in a position, when rearmament began, to produce the most modern apparatus immediately in serial manufacture and to instruct many other firms (cf. Eberhardt notice). Krupp, of course, in contrast to other firms, had to forego the renovation of many workshops. Numerous Krupp workshops are therefore less well equipped than those of competitor firms. Although it is difficult to state what sums are still necessary to catch up on renovation work, the whole 300 million RM must still be reckoned with, since the sums earned meanwhile have for the most part been used, not for modernization, but for the expansion of output capacity demanded by the Wehrmacht.

2. It is a self-evident principle that the State pays appropriate damages for the requisitioning of material property, whether they acquired the property by sequestration or whether it was destroyed by them or by the enemy. This principle is disputed in the case of intellectual property. Intellectual property does not fall into the lap of its possessors, but demands the investment of considerable sums, often running into millions, for research and in particular for failures due to unsuccessful research or setbacks in the introduction of products into the open market. For this

[1] Schroeder joined the Krupp firm in 1938 and became the deputy of the defendant Loeser. Later he became chief of Krupp's accounting branch and still later chief of the financial department. Extracts from his testimony concerning the charges of spoliation in France are reproduced below in section VII D 4.

[2] Dr. Fritz Todt was head of the Organization Todt, established in 1938, and the first Minister for Armament and Munitions (from 1940 until his death by accident on 8 February 1942). In this last position, he was succeeded by Albert Speer, one of the defendants in the case before the IMT.

reason, intellectual property must be dealt with in exactly the same way as material property.

3. Every industrialist has to face the question whether he will use the funds at his disposal for new plants or further research. To invest it in new workshops or to use it for the improvement of the workshops is always less risky; by decreasing internal costs it brings about the most impressive profits. Investment in new research work, on the other hand, is fraught with risks. If the result of the research is handed over gratis to the firm which has not carried out research but has improved its factory, it gains a very considerable advantage over the firm carrying out the research work. This is of necessity the culmination of every endeavor in research.

* * * * * * *

[Signed] SCHROEDER

TRANSLATION OF DOCUMENT NIK–6472
PROSECUTION EXHIBIT 127

KRUPP FILE NOTE OF A CONFERENCE ON 25 JULY 1940 WITH REICH MINISTER TODT, DISTRIBUTED TO SIX OF THE DEFENDANTS, CONCERNING COMPENSATION TO KRUPP FOR THE SURRENDER OF EXPERIENCE POSSESSED SOLELY BY KRUPP

Copy

[Handwritten] Reference AKS 32970g of 3 July 1940

Gusstahlfabrik, 29 July 1940
G/Pi

File—Notation

Conference with Reichsminister Dr. Todt on 25 July 1940

The following gentlemen were present: Reichsminister Dr. Todt, later Messrs. Saur, Krupp von Bohlen und Halbach, and Professor Goerens.

Mr. Krupp von Bohlen* stated that he attached great importance to the conference, because the correspondence already mentioned dealt with fundamental and essential questions. With regard to the letter addressed to Mr. Todt by the firm of Krupp, he wished to make it clear that it had been intended to discuss its contents first of all with Mr. Todt's assistants. However, due to a chain of coincidences, the intended conference had not taken

* Gustav Krupp, since Alfried did not use the name "Krupp" until late 1943. Note that in the distribution list Alfried is referred to as "A. von Bohlen."

place, so that in the hurry, the letter was sent to the Minister himself. In communications with the supreme Reich authorities, he explained, all letters—with very few exceptions only—were signed by the directors themselves.

Meanwhile Mr. Saur had arrived and when he made his report on the matter it became evident that indeed an unlucky star had governed the preparations for the whole affair, for all those concerned in the matter had been prevented by sudden departures from attending the scheduled conference.

Mr. Krupp von Bohlen then explained in detail why the firm of Krupp had to adhere strictly to the principles expressed in the letter, according to which we should be entitled to compensation in exchange for the surrender of important experience which we alone possess. This experience, he said, was acquired in a development of more than one hundred years, and forms the basis for Krupp's supremacy in many fields. If we should be forced to yield all this without recompense, Krupp's advantage would at one stroke come to nothing and the very foundation of the firm would be shaken. Mr. Krupp von Bohlen then gave an impressive account of Krupp's development after 1918; he related how at the time he had discussed at length with the Reich Chancellor the question of whether or not he should, in the conversion of the plants, keep in mind any future restoration of Germany's military power, in spite of the fact that the regulations of the Treaty of Versailles prohibited Krupp to produce war materials except for a negligible amount. Yet, he had carried out his plan, despite the disapproval of leading economists, and despite the fact that he knew he would have to face no end of troubles, undergo financial sacrifices, and have the ridicule of many people in addition. For only thus had it been possible to prove to the Fuehrer from the very outset that workers, experience, construction, and production processes were available to carry out the rearmament quickly and successfully. On the widest margin imaginable and without a minute's delay, the firm of Krupp had then placed its plans at the disposal of other firms, complete to the very details of manufacture.

If in 1918, Krupp had chosen the other alternative, and if instead of making arrangements for future rearmament the firm had followed the example of other industries and had extended the Friedrich-Alfred-Huette and closed the cast steel factory [Gusstahlfabrik] at Essen—with the exception of the high grade steel plant [Edelstahlwerk]—it certainly would have spared losses that weakened its position considerably, and prevented the firm from modernizing its equipment in important ways.

To this Mr. Todt replied that he entirely agreed with Mr. Krupp

von Bohlen. Never had it occurred to him to take something without compensation—such as following the Communists' example of doing things—because with such a procedure every incentive for progressive work would simply be lost. The combines [Arbeitsgemeinschaften] created by him, he elucidated, were meant in the first place to prevent constant new constructions and plant expansions involving tremendous expenditure of iron, for the operation of which workers would have to be taken from existing plants, which in turn would have to close down. He said that it would seem to him more expedient to convert the existing plants and to make use of the available industrial concerns as godfathers or sponsors, so to speak, so as to familiarize the industry, which is to be converted, with its new task.

In the letter addressed to him, he went on, he missed the important views that Mr. Krupp had just outlined. He had understood from that letter, however, that, before Krupp would work within the combines, the lawyers of both firms would have to sit in conference in order to agree upon the necessary payments and formalities. Yet it seemed to him that such a procedure would be quite impossible, since it would take up far too much time. Besides he assured the firm of Krupp that the present government would not fail them.

In reference to that last remark, Mr. Goerens interjected that it should be precisely our aim never to be dependent on the government for aid, but rather that the problem consisted in finding ways of placing newly established firms in a position where they could further serve progress which, in the final analysis, was the basis of any nation's power.

Mr. Todt confirmed at once that this was also his opinion, and one which he had always held. Finally Mr. von Bohlen had a short talk with Mr. Todt in matters of the Belt Bridge, in the course of which the latter promised that he would again look into the matter. At parting, Mr. Saur told Mr. Goerens that there were plans to set up a small committee—consisting of the Messrs. Kessler, Wolf, Borbet, and Goerens—to settle the question of payments. He asked that we might think of some way in which to handle the matter which would not interfere with the present set-up of the system. I asked Herr Saur to give me an opportunity, at any rate, of talking to him alone before this committee would have its first meeting, because I had a few additional statements to make for which there was no time now. He agreed to that.

Signed: GOERENS

903432—51——22

[Distribution]:
Messrs. Krupp von Bohlen
Loeser
A. von Bohlen
E. Mueller
Schroeder
Pfirsch-Eberhardt
Houdremont

TRANSLATION OF DOCUMENT NIK–8575
PROSECUTION EXHIBIT 132__

LETTER FROM JOSEPH WIRTH* TO GUSTAV KRUPP, 9 AUGUST 1940, CONGRATULATING HIM ON HAVING BEEN AWARDED THE WAR MERIT CROSS FIRST CLASS

Joseph Wirth
Lucerne
Haldenstrasse 7

Lucerne, 9 August 1940

Mr. President Dr. Krupp von Bohlen-Halbach
Essen

Highly Esteemed Mr. President:

Swiss newspapers have circulated the report that in appreciation of your services in rearming the German armed forces, you are the first German to have been awarded the War Merit Cross 1st Class.

I have the honor to inform you that I have noted this fact with pleasure in my records, and at the same time I recall with satisfaction the years of 1920 till 1923, when together with Direktor Dr. Wiedtfeld both of us were able to lay new foundations for the development of the German armament technique through your great and most significant firm.

Mr. Reich President von Hindenburg, as is well known, had been informed of it. His reaction also was very creditable, though nothing of this has as yet been disclosed in public.

I also write down these lines to add them to my files, which already contain the well known letter of Dr. Wiedtfeld of 1921, stating that your most respected firm was assured of 10 years service for the government on account of my initiative as the Reich Chancellor and Reich Minister of Finance, by releasing

* Wirth was Reich Chancellor in 1921 and 1922, and for Germany signed the acceptance of the ultimatum of the Allied Powers in May 1921 concerning Germany's obligations under the Treaty of Versailles. See Document NIK–12114, Prosecution Exhibit 130, reproduced above in this section.

considerable means of the Reich for the preservation of German armament technique.

I repeat this matter in a purely personal and confidential way without thinking of making these lines available to the public. The fact being that, approximately 2 years ago, the Reich government made it known through the Ambassador in Paris, that any publication about previous preparations for the recovery of national freedom would be discouraged.

With regard to the hard, decisive battles that lie before us, there is also no need for it. Still, our hearts are very much in the events of these days. I meditate on thoughts of peace, without, of course, being able to break the reserve imposed on me. Since the days of Wiedtfeld I have cultivated good relations with the U.S.A., which I was able to test as recently as last year on the occasion of a long journey of a purely private character. Equipped with experiences of the [First] World War and of the post-war period, I am inclined to wish that we shall be spared the war with the U.S.A., in spite of the concern caused by some reports from the U.S.A.

With the greatest respect, I have the honor to remain

Your most devoted

[Signed] JOSEPH WIRTH

PARTIAL TRANSLATION OF DOCUMENT D-191 PROSECUTION EXHIBIT 322

EXTRACT FROM A KRUPP MEMORANDUM BY THE DEFENDANT EBERHARDT, 25 MARCH 1941, CONCERNING KRUPP'S EXPORT OF ARMAMENTS*

[Stamp] STRICTLY CONFIDENTIAL!

Essen, 25 March 1941

Thoughts on the question of surrendering part of the income from such foreign business as can, under present circumstances, be conducted by drawing on army stocks and equipment and ammunition.

During the decades preceding the [First] World War, Krupp supplied nearly all countries of the world with guns and artillery equipment and have achieved a paramount position and brilliant reputation. The Treaty of Versailles destroyed and mutiliated not only the armament production plants at Essen, but also prohibited the export of armaments.

* For a translation of larger portions of this memorandum, see Nazi Conspiracy and Aggression (U.S. Government Printing Office, Washington, 1946) vol. VI, p. 1076.

The liberation of the Reich from the shackles of Versailles enabled Krupp to recommence the export of armaments. The German Government had, in fact, pressed for the matter. Military-political and military-economic reasons were the cause.

[Handwritten] in case of war additional capital for German armed forces

Krupp desired to come into the closest contact with the armament technical production of the world by means of these armament exports, so as to further the development of arms and at the same time to recapture foreign markets in order to secure additional work for their own workshops and to create employment for their workers in the event of a decrease in Wehrmacht orders.

The revival of the armament export business was very difficult.

The name "Krupp" still had the old appeal abroad and the reputation created during decades of supplying the best armaments was not destroyed, but the connection had been severed. During 20 years of stranglehold on any possibilities of supplying foreign markets, the foreign competitors had found an entry for their products. Our former offices abroad had partly closed down in the postwar years, and had partly had to turn to other tasks.

[Handwritten]
6/3—1
4/4—1
Ebh.—1
—
—3

The formerly large export organization of the works existed no longer. Necessary experts were not available. The plant for export production was lacking. All this had to be reconstructed with considerable effort and considerable costs.

Krupp invested millions for this purpose. Plants were built and connections were restored, suitable representatives employed, journeys abroad undertaken, designers engaged, together with special employees for the cultivation and supervision of the export business. By using all the forces at his disposal and regardless of effort, costs, and risk, considerable export contracts were secured which served to obtain foreign currency or raw materials and were, at the same time, politically desirable.

* * * * * * *

[Signed] EBERHARDT

PARTIAL TRANSLATION OF DOCUMENT NIK–10499
PROSECUTION EXHIBIT 491

EXTRACTS FROM KRUPP MEMORANDUM, 9 FEBRUARY 1942, REVIEWING KRUPP'S CONTRIBUTIONS TO GERMAN WAR EFFORT AND THE SUCCESS OF KRUPP WAR MATERIALS AND EQUIPMENT

KM, [Handwritten] 9 February 1942

The superiority of German weapons in the campaigns of the last 2 years in the battles in the air and also on the sea is at the same time the best proof of the achievements which Krupp attained in the field of armaments.

The great fighting strength of the German artillery, the superiority of German tanks, especially the tank IV, over those of the enemy, the performance of the 8.8 cm. antiaircraft gun in support of other formations in attack as well as in defense against enemy tank attacks, the successes of the German Air Force and of the submarines, the fight of the battleship "Bismarck," speak clearly for the quality of these weapons, in the development of which Krupp played a decisive part.

These great successes are the reward of years of laborious research and mental activity by our firm, and the dedication of all the employees to the principle of the most complete possible mobilization for defense.

Immediately with the outbreak of war an increase of production in all fields of armament to the limits of productive capacity began. This did not mean that the work of development stopped. On the contrary, the war continually presented new problems and demanded great adaptability in meeting the constantly growing demands.

In listing below the achievements of our firm in this war we must limit ourselves to some, by no means exhaustive, examples because development in all fields is a continuous process. They show not only the great contribution of Krupp to the improvement of weapons, their effect and their usefulness, but also that a calm undisturbed mass production is not possible in our plants and that, for this reason, total performance of our firm insofar as deliveries are concerned should be valued all the higher.

Artillery pieces

17 cm. gun in Moerser mount

Out of the idea of obtaining a mobile long gun with a range of approximately 28 km. [18 mi.] for use on the Channel coast came the request of the Army Ordnance Office for the installation of eight existing inner liners of the 15 cm. naval gun C/28 in suitable mounts in the shortest possible time.

The request was given first to Rheinmetall, who gave a delivery period of 8 months. Krupp then proposed placing the barrels in mounts of the 21 cm. howitzer 18 in a considerably shorter time. After the contract was given to us at the end of March 1940, the manufacturers, firing tests of the first gun took place in the beginning of July. By the end of August, all the guns were ready for acceptance trials.

From the above planning came the idea of developing a special gun barrel of 17 cm. caliber to be used in the mount of the 21 cm. howitzer for the protection of the long stretches of coastline. After the Fuehrer entrusted us with this assignment in the beginning of April 1940 we succeeded by concentrating all efforts, in carrying forward the development so rapidly that, in August 1940, the just experimental gun was finished. A second experimental barrel was finished in September 1940. Our promise to deliver from January 1941 half of our monthly howitzer production, 4 guns, as 17 cm. guns was kept in spite of all difficulties in production. This is an example of the extraordinary adaptability of our plant in development as well as from the point of view of production.

Performance increase of heavy gun 38

The contract given at the end of September 1938 for the development of a 21 cm. gun with a range of 30 km. led to the completion of an experimental gun in August 1940. Since the range obtained did not satisfy the Army Ordnance Office, the assignment was given to increase the range to 34 km. without delaying the delivery dates of the first production series.

We also received, on 10 February 1940, a contract to produce 15 heavy guns 38. We agreed to deliver the first two guns in August 1941. We succeeded by concentrating all efforts in rushing development and production so that in spite of all the difficulties caused by the required increase in performance, the promised deadline of beginning delivery of the series guns with two units in August 1941 and the increase of range to 33.5 km., was fulfilled.

Heavy field howitzer 18/40, heavy 10 cm. gun 18/40

In connection with these pieces the special contribution of our firm is that, without regard for the various special problems of the war which already completely took up our capacity, we sought ways and means of improving the ranges of the heavy field howitzer 18 and the heavy 10 cm. gun 18 in use by the army on our own initiative. Our problem was to increase their performance while continuing to use the same parts with as few changes as possible.

Completely on our own initiative we developed from the heavy field howitzer 18 a gun with 15 km. range and from the heavy 10 cm. gun 18, one with 20 km. range. The solution of the problems which we had given ourselves gained the interest of the army ordnance office which at once gave us contracts for experimental series and also for a production series of the heavy field howitzer 18/40. We delivered the experimental series of the heavy 10 cm. gun 18/40 between March and July 1941. The delivery of the experimental series of the heavy field howitzer 18/40 began in February 1941 and is continuing at present with the delivery of the production series.

Heavy field howitzer 36

This piece is an example of the design of an especially light 15 cm. howitzer which can be horse-drawn in one load. The transport of the old heavy field howitzer 18 was only possible in one load when it was motor drawn. It necessitated division into a gun carriage vehicle (of 4,000 kg) and a gun-barrel vehicle (of 4,000 kg) when employed as a horse-drawn gun. In comparison, the total transport weight of the heavy field howitzer 36 is only 3,600 kg.

L.G. 2 Kp. [recoilless gun]

The wish of the army ordnance office to obtain a recoilless gun led to the development and production of a 7.5 cm. gun designated as L.G. 1 (200) by the beginning of July 1940. This piece showed itself to be of insufficient performance to be used, so that the army ordnance office at the end of October gave our firm a contract to develop and build a higher performance gun as rapidly as possible. The gun was to be for the use of parachute and airborne troops and was to have a caliber of 10.5 cm., and a muzzle velocity of 350 meters per second.

Because of the priority of the assignment we were given exceptionally short delivery periods. One experimental gun was to be ready in December 1940, four pieces for training purposes in January 1941, and the whole order of 40 by 15 March 1941. By the greatest efforts we succeeded in meeting all the delivery dates. The first drawings of the experimental barrel could be placed at the disposal of the workshop on 16 November 1940. The first test firing of the experimental barrel occurred on 10 December 1940. On 5 March 1941 the first production barrels and mounts were ready for their acceptance trials. The first 40 production guns were ready for their acceptance trials by the end of March in spite of several design changes.

Meanwhile the order for the first production series had successively been raised to 60, 70, and finally 100 guns. In spite

of the fact that the last increase was dated 22 February 1941, the entire order was ready for delivery by the end of May 1941. From the points of view of requisition of materials and the high degree of exploitation of our shops made necessary by the war this solution of the problem presented us is a singular achievement. It was only made possible by the maximum utilization of the men and machines in our plant, especially the personnel of the designing office and workshop concerned, through complete dedication of every single man to the assignment without regard to any considerations which could have caused delays.

With this gun, the parachute and airborne troops received a completely new and strong offensive and defensive weapon, which they had previously lacked. It was used in the fighting on Crete by way of experiment, and it proved itself to be outstanding. This design opens new vistas for the development of light but powerful artillery weapons.

The extraordinary achievement of our firm in this field was given special recognition by a letter of the Chief of the Army Ordnance Office (testing group, Army Ordnance Office 11/II A, correspondence book No. 6639/41 confidential, of 20 June 1941) which is appended hereto as annex 1.

Increase in efficiency of tanks

The pioneering work of our firm in the tank field already began over 15 years ago. The pioneering quality of our proposals since the beginning of the development work is shown by suggestions we made then, which have long since been accepted and generally introduced, such as, for example, the polygonal shape of turrets and their location in the center of the vehicle. Other important elements of design which may be traced back to ideas of Krupp are—electrical firing to reduce time-lag; the electric safety switch for the protection of the leader; the hydraulic safety switch for the protection of the vehicle and the crew in case of damage to the recoil mechanism; the ventilation of the fighting compartment; and the ejection of cartridge cases. We also played a decisive role in the development of armor plate and welding techniques. These accomplishments of our peacetime work found their full usefulnes in the war. They placed us in a position to meet, in a short time, all new problems which we were presented whether they concerned the increase of the fighting value through heavier armor or larger guns, or whether they concerned wading ability or ability to operate under tropical conditions. The fact that we manufacture both tanks and antitank guns stood us in good stead in the solution of these problems. We have thus gained a knowledge of the conditions of the employment of

tanks and the combating of tanks, a fact which enables us always to make suitable suggestions for the arming of tanks. This is especially so in the cases where the strengthening of armor causes a corresponding increase in the performance of antitank guns.

Repair and adjusting of captured guns

As a consequence of the course of the war we received the assignment of installing captured guns on mounts as coast defense guns. The greatest speed seemed necessary because of the length of coastline which was to be armed. The guns had to be so mounted as to give the greatest possible traverse and rate of traverse. First, the captured guns had to be most carefully studied and measured, then began the usually extensive designing work. We succeeded in hurrying this work so that we were able to begin delivery in a relatively short time. So, for example, two 28 cm. Bruno railway guns, which were received in August 1940 were delivered in October 1940 and three more in the course of the year 1941. One 24 cm. Theodor railway gun, which was also received in August 1940 was delivered in November 1940. Seven batteries of 22 cm. guns 17, which were received in the period from November 1940 to February 1941 were delivered in the course of the year 1941. Two batteries were delivered to the navy and the other five to the army. Two 34 cm. railway guns in cradle mounts, which were received in July 1940 and two 24 cm. railway guns in all-round mounts which were received in January 1941, were sent to Meppen for tests in August 1941. A 52 cm. howitzer in railway mount, which we received in September 1941 was sent to the front in the beginning of November 1941 after being overhauled in Essen and test fired in Meppen.

Screw-breech mechanisms

On the basis of experiences gained in foreign countries we occupied ourselves with the problem of plastic obturation and carried forward the development work on our own initiative and at our own expense. The advantage of the screw-breech mechanism lies in the fact that the use of cartridge cases is avoided. This results in a considerable saving of metals. This saving has become of considerable importance in the war because of the scarcity of material. When during the war, the navy, for large calibers, as well as the Army Ordnance Office, for the heavy field gun howitzer 40, requested designs for plastic obturation we were able, since the problem of the screw-breech could in the main be considered as solved, to place the armed forces in a position where they could have at their disposal an almost finished design, and thus enable them to save the time which would otherwise have been necessary for the development.

Ammunition, large naval projectiles

Krupp was removed from its unique position as manufacturer of armor piercing shells by the provision of the Treaty of Versailles, which forbade Krupp the manufacture of such shells. The manufacture was given over to another company (B.V.) [Bochumer Verein].

Krupp later made experiments on its own initiative. The tests by the navy of these shells which Krupp had made led to an outstanding result. The performance of these shells was appreciably superior to that of those in use by the armed forces. From this time on Krupp took constant part in the development of armor piercing shells. There was also planned a workshop capable of considerable production in connection with the "E-program." This plan was never carried out. Instead, other plants were expanded in spite of the fact that Krupp shells remained superior to those of the other plants. Krupp remained an experimental workshop. Later, at the insistence of the Naval High Command, a so-called "mass production" was set up in existing space. This production, however, had a very limited capacity because it was only an improvised installation.

In the summer of 1940 it became apparent that the other plants were not in a position to deliver armor piercing shells of sufficient quality.

Krupp was asked to give the other plants technical assistance and to give them its experience in the manufacture of armor piercing shells. This was done in January 1941 with the firm of Oberhuetten and in February 1941 with the firm of Bochumer Verein being introduced into the manufacturing process. The carrying-over of experiences to Rheinmetall was planned for a time but this has not been done as yet. All of this technical assistance took place without Krupp receiving any payment for it. Krupp also declared itself to be ready to accomplish the improvised installation of further machinery to raise the monthly production of 38 cm. armor piercing shells to 300. Because of space limitations, no solution other than an improvised one was possible. The Naval High Command gladly availed itself of this assistance in order to arm its newest battleships.

Until the beginning of the manufacture of Krupp's methods by the other firms, Krupp was the only plant which was able to deliver armor piercing shells of large caliber with the desired characteristics.

R [rocket-assisted]—shells

After the Army Ordnance Office had been working for some time on R-shells, we were for the first time enabled to take part

in this development shortly after the outbreak of war. We accepted this new problem with great fervor and, in spite of the difficulties, especially from the point of view of production, have carried the development so far that, especially with calibers of 15, 21, and 28 cm., we are close to the conclusion of the experiments. The development is also being advanced in the 10.5 and 12.8 cm. calibers regardless of other important development problems.

Even now it can be seen that the result of our work will be an appreciable increase of range and, simultaneously, a good effect of the shell on the target. This is a result which may be expected to give our artillery a further superiority over that of the enemy.

In the same way we concerned ourselves with the development of F[high explosive]—projectiles and cartridge base projectiles [Treibspiegelgeschosse]. Of the first types an armor piercing shell and a high explosive shell have been introduced for the antitank gun 44. Cartridge base projectiles are at present being tested in various calibers as armor piercing and as high explosive shells. The experiments are, in part, nearly concluded.

* * * * * * *

Powder

In years of progressive work we had succeeded, at considerable cost, in developing methods for computing and testing of powder. Because of this we are in a position to choose the powder for new gun designs in advance. This is a situation which must be highly valued, especially during the war, and is of value both to us and to the armed forces because much time and money can be saved, and it is possible to save workmen for other purposes of development and production.

New developments

Heavy field artillery

We made proposals for the further development of heavy and heaviest field artillery with cross country mobility. These included guns on self-propelled tracked mounts which would be suitable for use on roads and cross country as well as for river crossings on pontons.

Automatic guns

We are intensively and successfully furthering the development of automatic antiaircraft cannon. We proposed new ideas, including suggestions for increasing the rate of fire and reducing the weight.

Tank armament

We would like to bring special notice to the tendency of increasing the armament of tanks. This is a question which has become of special importance because of experiences in the present war.

Tank 4501 P

An especially important assignment was given us when we took part in the development of the tank 4501 P. We are energetically furthering the development of the turret which must meet completely new conditions which have never before been encountered, so that good results may be expected within a reasonable length of time.

New types of projectiles

Projectile development has, in the last few years, moved along new paths. Above all, wartime experiences presented us with completely new problems. All developments, research, and tests have moved toward increase of range, increase of armor penetration, or the effect on the target, and also, in shelling rapidly moving targets (flak, etc.), in increasing the velocity of the shells in order to reduce the period between firing and the arrival of the shells at the target. These purposes are served above all by our work in the three main fields of R-shells, F-shells, and cartridge base projectiles, all of which were referred to above.

We are also occupying ourselves with the solution of several special problems in the field of projectile development. In addition to star shells and "Ueberwurfgeschosse" (mortar grenades with shaped charges) this included experiments for the creation of obstacles against aircraft by projectiles. Also worthy of note are our experiments leading toward the attainment of increased armor penetration by new, until now unknown, methods such as, for example, with the assistance of a core within an armor piercing shell or by combined-effect shells (special projectile within the envelope of the main shell).

Fuses

In the field of fuses our developmental work on fuses for nonrotating projectiles is especially worthy of note. We are also devoting ourselves to the problem of hydrostatic fuses and fuses with automatically variable delays.

Fuse setting machines

Our work on the further development of fuse setting machines is being advanced with all vigor.

Antitank gun 44

Our work in the antitank field is worthy of special note. The development of the tank arm in the last few years presented the antitank arm with constantly more difficult problems. The work which we accomplished at the time on the antitank gun 44 and its ammunition make possible the fulfillment of new far reaching requirements. They are the continuation of experiments on projectiles which we had previously carried out on our own initiative and at our own cost in which we attempted to increase the impact velocity and thereby the penetrating power of shells. This concerns the development of a conical barrel, a problem to which we had dedicated our attention during the war. The pioneering work which we accomplished in this field in the belief that the conical barrel still had a future has had the result that we have received an order for a first series of 100 conical barrels for antitank gun 44.

Accomplishments in the metallurgical field

The question of the substitution of alloy steels by slightly alloyed or nonalloyed steels has become of very special importance during the war. We have for years given the problem of the development of low alloy steels special attention. The experiences gained placed us in the position of being able to take a particularly successful part in these matters in wartime. We have always, whenever a request in this field was received from the armed forces, willingly and without regard for costs, begun the manufacture of experimental parts.

In addition to the question of saving valuable metals, we have been occupied with the problem of the saving of material in general during the war. In the solution of this problem we, as the recognized leading firm in the forging of gun barrels of large and largest calibers, could, partly by exploring new paths, obtain some excellent results. An example of such a special accomplishment is the manufacture of the multiple throw crankshafts of motor torpedo boats. The manufacture of these crankshafts of high chrome nickel alloy steel is already a considerable accomplishment in relation to forging and heat treating. These crankshafts have now been forged for approximately 2 years. This was the first attempt to make crankshafts of this quality of steel and of this size by drop forging instead of by ordinary forging. The saving by this method amounted to 60 percent of the initial weight of steel necessary.

Besides our active cooperation in the fields mentioned above many other problems in the metallurgical field have occupied us. In this way the problem of the flocculation of steel has been scien-

tifically and technically solved. We are at present engaged in finding new ways of manufacturing gun barrels with a high bursting resistance and of increasing their performance by reducing barrel wear.

We are taking a very important part in the development of stamped armor plate for the air force. A special development of our plant is the wedge-shaped rolled wing beam belt, made of steel with an ultimate tensile strength of 120 kg. of which rather large deliveries of experimental types have been successfully installed. These wing beam parts permit improvements in aircraft design and appreciably reduce the requirements of light alloys. We also developed a weight-saving method of attaching the tail and wings to the fuselage. Besides working out material-saving manufacturing methods and the use of low alloy steels for torpedo pressure tanks for the navy, we also developed a method of producing cast stainless ship propellors for destroyers, torpedo boats, submarines, cargo launches, and mine sweepers. We have also developed a series of special materials for measuring and indicating instruments for the navy and air force from the point of view of saving foreign exchange. These materials are partly still in development and partly already in use in larger quantities. Nickel-free materials for magnetic mines and nickel-free parts for gyro compasses, sound and ultra-sound ranging equipment for the navy and for the air force, deflection-correcting magnets of highest power for course determination, nickel-free transformers for automatic pilots, and loading equipment and relay parts of pure iron (substitute for Swedish charcoal iron).

Difficulties in connection with employment of labor

Our plants were faced with serious difficulties, just as were those of other firms, by the removal of employees made necessary by the war and the increasing difficulty of obtaining personnel. We may certainly consider as a special accomplishment the fact that we have, in spite of these difficulties, kept our deliveries in all lines up to the old heights both quantitatively and qualitatively.

Our Grusonwerk (Magdeburg) was hit especially hard by these difficulties. The fact that of an initial employment of approximately 7,500 an addition of approximately 4,600 and a loss of approximately 3,400 employees occurred shows the amount of retraining, apprenticing, additional training, and constant changes which lies behind these figures. In addition to all this, the present labor force includes approximately 1,100 assigned employees, 900 foreigners, and 600 women, together approximately one third of the total.

In spite of all these difficulties, the Grusonwerk has succeeded, on a work-hour basis, in keeping up with German competition in all products, and in surpassing them in many lines by careful preparation of work and a system of incentive payments. Our developmental work in the fields of Widia tools, the boring of gun barrels and especially the casting of Pearlite shells, in which we had the leading position for some time, was recognized by the military authorities. For its active work in the saving of labor in the manufacture of 8.8 cm. high explosive shells, the Grusonwerk received from the Minister for Armament and Munitions (a letter of congratulation and thanks which is attached hereto as annex 2).*

Accomplishments in ship construction

In the field of submarine construction, the Germaniawerft, which belongs to our firm, is the recognized birthplace of the German submarine and after a preparatory and developmental period of nearly 40 years reached the full unfolding of its capacities in this war. The beginning of the war brought an almost unprepared and sudden change from limited to mass production of a submarine fleet which in its size had never existed previously. Design and construction were built up in the main on the experiences of the Germaniawerft. The Germaniawerft also received the leadership in the industry by the assignment to it of a large number of shipyards and also assisting plants in the interior of Germany as licensees. In the course of the war the number of types increased to an extent not previously known.

The Germaniawerft succeeded by excellent planning and direction of details in reducing the construction period to two thirds and to achieve a high rate of construction while, at the same time, the maintenance of quality remained the most important principle. We can certainly maintain that without the giving of the experiences and without the participation of the Germaniawerft as planning and leading shipyard, the powerful program of the navy could not have been carried out with the precision with which it is now being furthered.

To these unprecedented accomplishments of the Germaniawerft must be added that important machinery and equipment of the submarines, especially the Diesel engines for all types made by the Germaniawerft, were also designed by the latter and are being built under their licenses by shipyards and engine plants.

The Germaniawerft has also taken a leading part in the building of surface vessels. As a special accomplishment we refer here to the successes which the shipyard gained after the change-

* The letter of congratulation mentioned was not included in the exhibit.

over of the navy from low pressure steam or engine installations to high pressure steam turbines on certain fleet units. After other shipyards had received contracts for the testing of experimental high pressure turbines a considerable period before, the Germaniawerft succeeded, without special preparations, in placing the first vessels with high pressure turbines at the navy's disposal on the basis of the Germaniawerft's experiences. We refer here to the heavy cruiser "Prinz Eugen," with turbines of this type, which has since been shown to be a complete success.

Work on the West Wall

Within the scope of the fortification program which the Army Ordnance Office had urged for years, our firm took a decisive role in the equipment of the West Wall. As the events of the first year of the war necessitated an accelerated completion of the West Wall we considered it as one of our most important assignments to further this work by all the means at our disposal. This consisted mainly in an accelerated preparation of the already poured, but empty, concrete works for battle, installation of internal equipment, and substitution of improvised embrasure ports with the final ones. Through complete use of our already heavily occupied plants, and the useful and energetic work of our mechanics on the spot, we succeeded in appreciably shortening the long fixed deadlines.

* * * * * * *

2. EARLY RELATIONS WITH LEADERS OF HITLER'S THIRD REICH

PARTIAL TRANSLATION OF DOCUMENT D-203* PROSECUTION EXHIBIT 187

EXTRACTS FROM A REPORT OF SPEECHES BY HITLER AND GOERING TO GERMAN INDUSTRIALISTS ON 20 FEBRUARY 1933, FOUND IN GUSTAV KRUPP'S FILE, "PRIVATE CORRESPONDENCE 1933–1934"

With the year 1918, an entire system collapsed. That it had to come about was often predicted, also by economic leaders, especially by Geheimrat Kirdorf. The revolution which the year 1918 brought us was only conditional. In any case it did not bring about the revolution such as in Russia, but only a new school of thought which slowly initiated the dissolution of the existing

* Complete document is reproduced in "The Farben Case" where it was received in evidence as Document D-203, Prosecution Exhibit 37. United States *vs.* Carl Krauch, et al., Case 6, vols. VII and VIII, this series.

order. Bismarck's statement: "Liberalism is the pacemaker of social democracy" is now scientifically established and proved for us. A given school of thought—thought direction—can unsuspectedly lead toward the dissolution of the foundation of the State. In our country also, a new direction of thought has gained ground which slowly led to internal disruption and became the pacemaker of bolshevism.

Private enterprise cannot be maintained in the age of democracy; it is conceivable only if the people have a sound idea of authority and personality. Everything positive, good and valuable, which has been achieved in the world in the field of economics and culture, is solely attributable to personality. When, however, the defense of this existing order, its political administration, is left to a majority it will irretrievably go under. All the worldly goods which we possess, we owe to the struggle of the chosen.

* * * * * * *

There are only two possibilities, either to crowd back the opponent on constitutional grounds, and for this purpose once more this election, or a struggle will be conducted with other weapons, which may demand greater sacrifices. I would like to see them avoided. I hope the German people thus recognize the greatness of the hour. It shall decide over the next 10 or probably 100 years. It will become a turning point in German history, to which I pledge myself with glowing energy.[1]

Goering—He also counted on it that with political pacification, domestic economy would also quiet down. No experiments would be made. However, to attain the goal, all forces would have to be mustered on 5 March.

* * * * * * *

Goering considered to some extent the great dangers connected with this election battle. He then led over very cleverly to the necessity that other circles not taking part in this political battle should at least make the financial sacrifices so necessary at this time. These were so much more necessary because not even one penny of the taxpayers' money would be asked for. Government funds would not be used. The sacrifices asked for purely would be so much easier for industry to bear if it realized that the election of 5 March would surely be the last one for the next ten years, probably even for the next hundred years.[2]

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[1] For Gustav Krupp's memorandum on his statement of gratitude to Hitler for making this speech, see the next exhibit hereinafter reproduced.

[2] Both the speeches of Hitler and Goering were made at a meeting of a group of more than twenty representatives of important German industries at the house of the president of the Reichstag, then Goering. Arrangements were made at the meeting which led to the collection of several hundred thousand Reichsmark for use in the campaign preceding the last election for the German Reichstag. Further materials on this subject are reproduced in the materials on the Farben Case, volumes VII-VIII, this series.

TRANSLATION OF DOCUMENT D-204
PROSECUTION EXHIBIT 188

MEMORANDUM BY GUSTAV KRUPP, CONCERNING HIS STATEMENT TO HITLER ON 20 FEBRUARY 1933, AFTER HITLER'S SPEECH TO GERMAN INDUSTRIALISTS

*Memorandum**

On the 20th of this month I expressed to Reich Chancellor Hitler the gratitude of approximately 25 industrialists present, [at the residence of the president of the Reichstag] for having given us such a clear picture of the conception of his ideas. I then emphasized that it would not be advisable to enter into a detailed discussion, but that I would like to underline three points with which all present would be in agreement—

1. That it is high time to finally clarify the questions pertaining to domestic politics in Germany.
2. That we, just as he, consider that the object of every regulation is to benefit the interest of the German people as a whole, not that of individual professions or classes.
3. That it is also our opinion that only in a politically strong and independent state could economy and business develop and flourish.

22 February 1933

TRANSLATION OF DOCUMENT NI-910
PROSECUTION EXHIBIT 190

LETTER FROM THE REICH ASSOCIATION OF GERMAN INDUSTRY TO HITLER, 24 MARCH 1933, REPORTING THE RESULTS OF A MEETING CONVENED BY GUSTAV KRUPP

[handwritten] 2810 [Initial] L [Handwritten] 361/13

[Stamp] 24 March 1933 [Initial] Will

Reich Association of German Industry

[Reichsverband der Deutschen Industrie]

Berlin W. 10, Koenigin-Augusta-Str.28

24 March 1933

[Stamp] S.Ang.v.25 March

[Handwritten] Letter of appreciation!

* This memorandum was found in Gustav Krupp's private files.

Dear Mr. Reich Chancellor,

May we inform you that on 23 March 1933, the Praesidium of the Reich Association of German Industry had a meeting convened by Herr Dr. Krupp von Bohlen und Halbach. At this meeting the political situation was under discussion. The Praesidium unanimously adopted the following point of view:

The elections provided the *basis for a stable government.* Difficulties which arose from constant political fluctuations in the past, and which obstructed economic initiative to a high degree have been eliminated. For active reconstruction, so badly needed, it is imperative to effect the *coordination and cooperation of all the forces willing to help.* German industry considering itself a vital and indispensable part of national reconstruction is ready for active cooperation in this task. The Reich Association of German Industries, being politically and economically its representative body, will do everything in their power in order to assist the government in its difficult task.

Reich Association of German Industry*

The managing member of the Praesidium:

[signature illegible]

The Secretary:

[signature illegible]

To Mr. Reich Chancellor Hitler

Berlin, W. 8

Wilhelmstr. 78

TRANSLATION OF DOCUMENT NI–904
PROSECUTION EXHIBIT 193

LETTER FROM GUSTAV KRUPP TO HITLER, 4 APRIL 1933, CONCERNING THE FORTHCOMING REORGANIZATION OF THE REICH ASSOCIATION OF GERMAN INDUSTRY

Praesidium of the Reich Association of Germany Industry
The Chairman

Berlin, W.10, 4 April 1933
Koenigin Augusta Str. 20
Telephone: Kurfuerst 6707–6711
Telegrams: Reichsindustrie

* The Reich Association of German Industry was later converted into the Reich Group Industry (Reichsgruppe Industrie).

[Handwritten] see RK 3646

Dear Mr. Reich Chancellor,

I wish to express my gratitude to you for the audience you granted me on Saturday although you are so extremely busy these days. I welcomed this opportunity all the more because I am aware of new and important problems which, as you will understand, in my capacity of chairman of the Reich Association of German Industry I shall be able to handle only if I am sure of the confidence of the Reich government and in particular of your confidence in me.

At the conclusion of our interview I took the liberty to broach the question whom I should contact as your deputy in all problems pertaining to the reorganization of the Reich Association of German Industry. It may have come to your attention meanwhile that at about the hour of the interview you were good enough to grant me, negotiations took place between Dr. Wagner of the liaison staff of the NSDAP [National Socialist German Workers' Party] and the business management of the Reich Association of German [Industry].

In view of the fact that I may have to make far reaching decisions within the next few days I should be most grateful for the final instructions you were kind enough to promise.

I remain, Mr. Reich Chancellor, your most obedient servant

[Signed] Gustav Krupp von Bohlen und Halbach

To Mr. Reich Chancellor Adolf Hitler

Berlin W. 8

Reich Chancellory

TRANSLATION OF DOCUMENT D–157
PROSECUTION EXHIBIT 195

LETTER FROM GUSTAV KRUPP TO HITLER, 25 APRIL 1933, ENCLOSING VIEWS ON REORGANIZATION OF THE REICH ASSOCIATION OF GERMAN INDUSTRY

File No. 183 v.B. 25 April 1933

Dear Mr. Reich Chancellor:

Referring to the kind letter of the Secretary of State of the Reich Chancellory, dated the 10th of this month, Ref. No. 3646, I respectfully enclose herewith a statement which represents my

views concerning the reorganization of the Reich Association of German Industry and of the trade associations as a whole. I am also adding a synopsis of statements concerning the program of the Reich Association of German Industry in previous years.

The standpoint taken by the Reich Association of German Industry concerning the question of reorganization of trade associations has been characterized, on the one hand, by the simplification and rationalization of all the industrial groups. This was aimed at in the widest circles of the Reich Association and, last but not least, by myself. On the other hand, it was characterized by the wish to coordinate, in the interest of the whole nation, both economic measures and political necessity, adopting the Fuehrer conception of the new German State. Industrial associations should be formed which are as simple and powerful as possible, closest to present conditions, and retaining the valuable privilege of free industrial administration. For me, this standpoint is a political and economic necessity.

I feel convinced that this task of reorganization can be realized only through an active economic self-administration based upon the creative energies of each employer and employee, and recognizing the principle which combines the national idea with national responsibility. This should be done by the closest contact between the Reich government and its representatives on one side and the Reich Association on the other. In this respect I am convinced that the deciding factor leading to the success of the reform is not to be found in the outward form of the organization itself but in the spirit, in which union between political leadership and economic necessity is established for the benefit of the State and people.

The presiding council of the Reich Association of German Industry has entrusted me, as its chairman, with the task of reorganization in a resolution passed at its extraordinary session held on the 6th of this month. The Reich Association of German Industry, dear Mr. Reich Chancellor, puts itself at your disposal and at the disposal of the Reich government for all necessary negotiations. At the same time I respectfully request the confidence and assistance of you and of the Reich government in the task of reorganization which shall make the trade associations a most useful instrument towards the purpose of rebuilding a national economy.

Assuring you, dear Mr. Reich Chancellor, of my highest esteem, I have the honor to be.

To: Reich Chancellor Hitler

Very respectfully yours,

[stamp]: KRUPP BOHLEN HALBACH

Berlin

Enclosure No. 1 to the letter of Dr. Krupp von Bohlen und Halbach to Reich Chancellor Hitler, dated 25 April 1933

On 6 April of this year the Praesidium of the Reich Association of German Industry empowered me unanimously, as its chairman, to establish contact with the Reich Chancellor, the government of the Reich and its officials, for the purpose of determining what measures should be taken to simplify and remodel the trade associations.

By this unanimous resolution of the Praesidium [Presiding Council] it is declared that—

1. In view of the authority bestowed upon me to appoint representatives to deal with various problems on hand, I am solely empowered by the Reich Association of German Industry to hold any necessary conferences with the government of the Reich and its officials, and

2. Under the same authority as in paragraph 1 I am solely responsible on behalf of the Reich Association of German Industry for all organizational reforms, especially those concerning personnel; which may result within the structure of the Reich Association of German Industry.

By the resolution of the Presiding Council, the Reich Association of German Industry has given me full powers which involve extraordinary responsibilities.

The following considerations led me to the acceptance of this extraordinary authority:

The turn of political events is in line with the wishes which I myself and the board of directors have cherished for a long time. I am convinced that, under the threat of the impoverishment of our people, the machinery of government must be simplified to the utmost. For the same reason I did not fail to recognize a long time ago the necessity of rationalizing our economic system.

Convinced that the opportunity of the hour must not be missed to obtain the best for our economic system I am employing the authority bestowed upon me by the Praesidium to carry out a double task:

1. In the negotiations with the Reich Chancellor and his representatives, I shall make it my goal to coordinate, in the field of organization of industrial associations, the economically reasonable with the politically necessary.

2. In reorganizing the Reich Association of German Industry I shall be guided by the idea of bringing the new organization into agreement with the political aims of the Reich government and at the same time to make it so rational and forceful that it can be an effective instrument of industrial enterprise, according to the relative importance of the industry.

The task of reorganization of industrial groups would be on too narrow a basis if in doing so I were to think solely of rebuilding the Reich Association of German Industry. I know from my own experience how much individual firms suffer from circumstances of historical development which cause overlapping of industrial groups, frequently resulting in a lack of coordination in their formation.

This demands that we must also bring into the sphere of our coming tasks the numerous questions pertaining to the complex occupational formation of our economic system. The foremost aim of our economic system and especially of industry, must therefore be to eliminate organizations which are too complicated. In order to preserve the valuable privileges of free industrial self-management, the resulting organizations must be made as simple as possible.

After the Praesidium of the Reich Association of German Industry bestowed upon me the task of reorganization in its resolution of 6 April of this year, it also stated that the still-existing groups forming the Reich Association of German Industry were to remain to some extent inactive until the task of reorganization undertaken by me is accomplished.

I intend to use the period until reorganization is complete by engaging especially qualified gentlemen as expert advisers for the solution of specific problems. Since the management of the Reich Association of German Industry needs the guidance of enterprise itself, I intend further to form special committees of experts to study specific questions, as for example, questions of organization, of ethics in economic life, the examination of occupational aspects of trade policy, exchange and credit problems, as well as the field of taxation, etc. The decision of the Praesidium specifies that I am to preside over all these committees that I am creating. As it is impossible for me to be present at all necessary meetings, it must be left up to me to appoint various gentlemen as deputy chairmen.

As soon as my negotiations with the Reich Chancellor and his officials are concluded, and as soon as the proposed committees and the management of the Reich Association of German Industry have drafted a plan for its reorganization, I shall summon the leading groups of the Reich Association of German Industry to a special meeting. It will be the task of the meeting to lay the cornerstone for the new structure of the Reich Association of German Industry.

LETTER FROM GUSTAV KRUPP TO SCHACHT AND A DIRECTIVE OF HESS, BOTH CONCERNING THE ADOLF HITLER FUND OF GERMAN INDUSTRY, 1933*

1. Letter from Gustav Krupp to Schacht, President of the Reich Bank, 29 May 1933, Concerning Krupp's Suggestion to Hitler for the Creation of a "Hitler Fund" Based Upon Donations from German Industry.

Berlin W 35, 29 May 1933

Reich Association of German Industry

Berlin W 35

Koenigin-Augusta-Strasse 28

To the President of the Reich Bank, Dr. Schacht

Berlin W 56

Dear Dr. Schacht,

The innumerable collections by NSDAP organizations and the Stahlhelm [War Veterans' Organization] within German industry have taken on an unorganic and uncontrollable character that is in some cases especially serious and in other cases hardly objectionable. This, however, is not in the interest of either the leadership of the NSDAP or industry.

On the occasion of a conference with the Reich Chancellor and Fuehrer of the NSDAP I suggested that we concentrate all collections taken up by his party in one great collection which will cover, if possible, all firms in German industry including agriculture and banking, evenly and in proportion to their number of employees.

Mr. Hitler agreed with me and asked me to make the necessary arrangements for such a collection. Accordingly, I entered into negotiations with the leaders of the various branches of industry. It was decided to call the collection "Hitler-Spende" [Hitler Fund] and to appoint a trusteeship to carry out the necessary actions. Inspired by the will to give my full cooperation to this project, which is to represent a token of gratitude to the leader of the nation, I accepted the chairmanship of the trusteeship upon unanimous request of the leading associations.

* The "Hitler Fund" became an established institution in the Third Reich through which large amounts of money were collected each year for the branches of the Nazi Party from German Industry. See the directive of Rudolf Hess, also a part of this exhibit.

I am therefore also addressing my request to you to lend your valuable support to the "Hitler-Spende." I should like to discuss further details with you. Should you agree to my request, I shall get in touch with you regarding a discussion.

With the expression of my highest esteem, I am,

Very truly yours,

[No signature]

2. Directive of Rudolf Hess, Hitler's Deputy in the Nazi Party, August 1933, Concerning the Purpose of the Hitler Fund and Limitations Upon Other Individual Collections by the Nazi Party from Contributing Enterprises.*

August 1933

The "Adolf Hitler Fund of the German Economy" is based on an agreement between the Central Administration of the NSDAP and delegates of the German private industry.

Purpose of the donation is—on the one hand to furnish the Central Administration with the means required for the centralized execution of these tasks which are for the benefit of the SA, SS, staffs, Hitler Youth, the political organizations, etc., on the other hand to give the enterprises contributing to the donation the assurance that their work for the reconstruction of the German economy will not be disturbed by unauthorized and unpredictable collections.

I forbid all members, offices, and institutions of the Party to collect money from any enterprises and associations of private industry who are participating in the "Adolf Hitler Fund of the German Economy." The donors will identify themselves with a certificate bearing my signature and the Party stamp. The certificate shows the total amount subscribed by the donor for the period between 1 June 1933 and 31 May 1934. The certificate is valid only in conjunction with the receipts covering the actual payments which are due quarterly, viz on 20 June, 20 September, 20 December 1933, and 20 March 1934.

All individual arrangements, local and district, of the Party offices and institutions, with the enterprises and associations of the economy eligible for participating in the donation become null and void. New arrangements which might cause the firms and associations of the economy to refrain from a participation in the donation are forbidden. Likewise, interference and measures in connection with the implementation of the donation are forbidden.

All subdivisions which in pursuance of my decree of 2 June 1933 have reported themselves as receivers of a regular donation from the German private industry will be refunded for the full

* This document was found in a file of the private secretary of Gustav Krupp.

amounts involved from the "Adolf Hitler Fund of the German Economy." Subsequent registration under the decree of 2 June 1933 cannot under any circumstances be considered, as it could not be included when the total of the Adolf Hitler Spende is computed.

Signed: RUDOLF HESS

PARTIAL TRANSLATION OF DOCUMENT NI-312 PROSECUTION EXHIBIT 215

LETTER FROM GUSTAV KRUPP TO HITLER, 2 JANUARY 1936, ACCEPTING FOR A FOURTH YEAR THE CHAIRMANSHIP OF THE ADOLF HITLER FUND; AND ANSWER FROM LAMMER'S OFFICE, 3 FEBRUARY 1936, EXPRESSING HITLER'S THANKS

Copy Rk. 518/36

Auf dem Huegel

Essen-Huegel, 2 January 1936

To the Fuehrer and Reich Chancellor

Herr Adolf Hitler

Berlin W 8

Wilhelmstr. 78

My Fuehrer,

With reference to my letter of 1 November of last year, I declare my willingness to continue to head the Board of the Adolf Hitler Fund of German Industry also in its fourth year, in accordance with the wish expressed in your letter of 31 October of last year.

May I be allowed to take this opportunity, my Fuehrer, to express my most sincere wishes to you for the year 1936, for the continued preparation of your far reaching plans and the confidence that this fourth year of its development will bring this first part of your program much nearer to fulfillment than could be hoped or expected three years ago. It remains a deep satisfaction to me to have been able to serve you in a modest way during this time.

With German greeting,

Your obedient servant,

Signed: DR. KRUPP VON BOHLEN UND HALBACH

Copy

The State Secretary and Chief of the Reich Chancellery

Berlin, 3 February 1936

Rk. 518

1. To Dr. Krupp von Bohlen und Halbach

Essen-Huegel

Auf dem Huegel

Dear Mr. von Krupp,

The Fuehrer and Reich Chancellor sincerely thanks you for your kind letter of 2 January 1936, in which you express your willingness to continue to head the Board of the Adolf Hitler Fund of German Industry in the fourth year of the donation.

Heil Hitler!

Very sincerely yours

(in the name of the State Secretary)

PARTIAL TRANSLATION OF DOCUMENT NIK-12522 PROSECUTION EXHIBIT 1494

EXTRACTS OF A LETTER FROM GUSTAV KRUPP TO BARON TILO VON WILMOWSKY, 27 JULY 1937, CONCERNING NECESSARY FUTURE COLLABORATION WITH THE NAZI PARTY BY DEFENDANT LOESER IN EVENT HE BECAME A KRUPP OFFICIAL*

Bluehnbach, 27 July 1937

My dear Tilo!

I just received your letter of the 26th of this month. Many thanks! I have been considering the question (G) but I do not believe that it can be followed up any further. On the other hand I would gladly pursue the question Loeser, and I would like to ask you whether on your next trip to Berlin you could arrange a meeting with Mr. Loeser and ask him whether he would consider joining our staff. Unless he refuses point-blank I would like to speak to him personally, either in Munich, Freilassing, or even here. Should our conversation create a basis for further discussions I would ask him to go to Essen and to get in touch with Klotzbach and Goerens, so that he will get a clear picture of the tasks there.

* This letter was introduced during the cross-examination of the defense witness Baron von Wilmowsky. Wilmowsky's testimony appears in the mimeographed transcript, pp. 5160–5242.

It is all important for me—and you could actually tell him that right from the start—that he should work together with his colleagues to be [etwaige Kollegen] in Essen loyally and sincerely and that he bears the responsibility with them. At the same time I am attaching great importance to the fact that he should also be mentally prepared to collaborate with the Party as honestly and sincerely as is in keeping with my attitude towards the Fuehrer and the movement as a whole.

Please forgive me for taking up your time in this matter, but I am of the opinion that in this way the problem regarding the successor for Buschfeld which concerns me greatly may progress quickest.

* * * * * * *

Kindest regards from us all to you all.

Always yours

[Signed] GUSTAV

[Handwritten] Answered by letter, 28 July 1937.

3. "LEX KRUPP."

TRANSLATION OF DOCUMENT D–99
PROSECUTION EXHIBIT 470

LETTER FROM GUSTAV KRUPP TO MARTIN BORMANN,[1] 11 NOVEMBER 1942, CONCERNING PROPOSALS FOR ESTABLISHMENT OF A KRUPP FAMILY ENTERPRISE

[Handwritten notation] 2d copy.

(1 copy for Alfried)

11 November 1942

My dear Mr. Bormann,

Today I once again refer to my letter of 27 July,[2] acknowledging at the same time the receipt of your letter of the 21st of the same month, and referring to the conversation which you have had with my son Alfried at the Fuehrer's Headquarters on 10 August with regard to the safeguarding of the firm Krupp for the future.

I should like to ask you first of all to express my warm thanks to the Fuehrer for his suggestion regarding the use of the costs of

[1] Bormann was tried in absentia in the case before the IMT and sentenced to death. Bormann became head of the Party Chancellery and Deputy to the Fuehrer after Hess' flight to Scotland in May 1941.

[2] The letter referred to was not in evidence.

the first piece of the new large equipment and for the renewed interest which is expressed for the firm of Krupp once more.

In enclosure 1 you will find the basic ideas for the social foundation of the firm of Krupp into which the amounts realized from the sale of this equipment are to be transmitted. In this connection I started from the idea that the firm of Krupp should create something which exceeds the compass of the normal care for the social welfare of the working staff. As you are aware, the normal care for the social welfare has already been developed to a great extent in our firm, and will be taken care of by the Party and the State more and more in the future. But, with respect to the engineering problems which the firm of Krupp had to solve so far, and which, I hope, will be entrusted to this firm also in the future, I believe that the promotion of the intellectual and technical talents of the workers and of their craftsmanship will remain a further social claim to which especially the staff of Krupp is entitled.

The more the knowledge of the individual member of the staff is developed, the more he will be conscious of his value to the community of the people. But the furtherance of his craftsmanship is only possible if he remains in the closest touch with the manufacturing enterprise. The higher the knowledge of the workers is developed, the better the quality of the products of the plant will be. The planned foundation of a kind of company owned training place for the workers, for which my collaborators suggested the name of "Gustav-Haus," shall serve this idea in the widest sense of the word.

Furthermore—with special reference to my personal letter attached hereto—I should like to refer once more to the further contents of your conversation with my son at the Fuehrer Headquarters on which he has reported to me. You have asked me to make proposals to you which would secure the future of the unified existence of the Krupp works more than this is feasible today. In the enclosure 2 you will find a few thoughts which, to make them more easily understandable and under the assumption that the firm of Krupp is not the only one which has similar wishes for future safeguarding, I have shaped in the form of a draft law. The basic thoughts behind the law are easily discernible from the introduction. On considering this question we have ascertained that under the present laws the principal solution of the question cannot be carried out. We had to find an entirely new way, therefore, which, just as the law regarding heritage of agricultural property, creates entirely new legislation.

Should there still be any questions concerning the fundamental ideas of the draft of the law, I shall always be at your disposal

during your stay in Berlin; my son Alfried, on his part, would be glad to call upon you as my representative at any other place which might be convenient to you.

In conclusion I should like to draw your attention to a point which is important. The firm of Krupp will have to decide by the end of February 1943 whether it will make the modification of capital which is possible on the strength of the decree regarding surrender of dividends. Since this modification would be superfluous in the event of a law being published, and would be connected with unnecessary work and high costs, I would be grateful to you, therefore, if you would inform me beforehand whether the proposed way appears acceptable to the Fuehrer.

With the old grateful admiration and with

Heil Hitler

I am,

[Handwritten] Your KBH [Krupp von Bohlen und Halbach]

TRANSLATION OF DOCUMENT D-103
PROSECUTION EXHIBIT 472

LETTER FROM MARTIN BORMANN TO GUSTAV KRUPP, 21 DECEMBER 1942, SUGGESTING A MEETING WITH REICH MINISTER DR. LAMMERS ON A "LEX KRUPP"

NATIONAL SOCIALIST GERMAN WORKERS' PARTY,
PARTY CHANCELLERY

Fuehrer Headquarters, 21 December 1942

Address for letters,

Munich 33

Fuehrer Building

The Leader of the Party Chancellery

To: Dr. Krupp von Bohlen und Halbach

PERSONAL

Essen, Auf dem Huegel

Dear Mr. von Bohlen!

It is already a fortnight since I verbally informed Reich Minister Dr. Lammers that the Fuehrer wishes "a Lex Krupp"*

* The words "Lex Krupp" were often applied to the later law creating a Krupp family enterprise. (Document 1387-PS, Pros. Ex. 475, reproduced immediately below.)

entirely designed for the preservation of the family enterprise Krupp. Reich Minister Dr. Lammers promised me to discuss the whole matter with you verbally. He would be pleased to come to Essen, since, in any case, he has never seen the works.*

I heartily wish you, your family, and the works all the best for the New Year, with a request to be remembered. I am always

Yours,

[Signed] BORMANN

TRANSLATION OF DOCUMENT 1387-PS
PROSECUTION EXHIBIT 475

DECREE OF THE FUEHRER, 12 NOVEMBER 1943, ESTABLISHING THE FAMILY ENTERPRISE OF THE FIRM FRIED. KRUPP (LEX KRUPP)

Reich Law Gazette

Part I

1943 Published in Berlin, 20 November 1943 No. 99

Decree of the Fuehrer Concerning the Family Enterprise of the Firm Fried. Krupp as of 12 November 1943.

The enterprise of Fried Krupp, a family enterprise for 132 years, deserves highest recognition for its incomparable efforts to boost the military potential of Germany. Therefore it is my wish that the enterprise be preserved as family property, and I order herewith:

I

The owner of the Krupp family's wealth is entitled to use this wealth for the establishment of a family enterprise with a specifically regulated succession.

II

The establishment of the family enterprise and its statute is to be governed by rules set by a court of law or through a notary's office. The statute will have to have my ratification, which is to be obtained through the Reich Minister and Chief of the Reich Chancellery.

III

Whoever be the owner of the enterprise shall carry the name "Krupp" before his family name.

* Heinrich Lammers, chief of the Reich Chancellery, was tried in the Ministries Case (United States *vs.* Ernst von Weizsaecker, et al., Case 11, vols. XII–XIV) and sentenced to 20 years' imprisonment.

IV

The Reich Minister for Finance, in agreement with the Reich Minister and Chief of the Reich Chancellery, is authorized to regulate all payments relating to the establishment of the family enterprise; he also determines the future taxation of the enterprise and any taxation arising from the death of the owner or from change of ownership ["Erbschaftsteuer" and "Schenkungsteuer"].

V

The Reich Minister for Justice and the Reich Minister for Economics, each in his own sphere and, if necessary, together, in agreement with the Reich Minister and Chief of the Reich Chancellery, may issue through channels any additional regulations necessary for the execution and completion of this decree.

The Fuehrer's Headquarters, 12 November 1943

THE FUEHRER

ADOLF HITLER

The Reich Minister and Chief of the Reich Chancellery

DR. LAMMERS

TRANSLATION OF DOCUMENT D-135
PROSECUTION EXHIBIT 478

LETTER FROM GUSTAV AND BERTHA KRUPP TO HITLER, 29 DECEMBER 1943, EXPRESSING THEIR APPRECIATION FOR THE ENACTMENT OF THE LEX KRUPP

29 December 1943

My Fuehrer!

By virtue of the decree of 12 November 1943, you have given your consent to the foundation of the Krupp family concern on special principles of succession, and on 21 December 1943 you approved the statute of the family enterprise founded here at Essen on 15 December 1943.

By this, you have made a wish come true, which my wife and I had had for years, and thus relieved our hearts of great worry over the future of the Krupp Works. The preservation of the Krupp Works in the hands of one person, and, thereby, the taking over of the full responsibility by one member of the family, had already been the wish of the grandfather of my wife, Alfred Krupp. This aim had found clear expression in his testament when, to prevent any division of the ownership of the Works,

he stipulated the succession of inheritance for three generations in such a manner that only one of the future heirs, the oldest, was to inherit the factory property. Following this basic conception of Alfred Krupp, my wife, and I also, desired to stipulate the succession of inheritance in that manner, whereby, only one successor of our family would inherit the factory property. Since, however, limits have been imposed by more recent legislations on settling the succession of inheritance for any length of time—the nomination of a residuary legatee according to the rules of the Buergerlichen Gesetzbuch [Rules of Civil Law], becomes void when 30 years have passed after the inheritance, unless a case of a residuary legatee has arisen before the end of that period—another way had to be found which would make this aim possible.

By your decree, My Fuehrer, this aim has now been achieved. My wife and I, as well as the whole family, will be deeply grateful to you for this proof of your confidence, and we shall do everything that is within our power to equip our son Alfried, the present owner of the family enterprise, for the task of securing and, if possible, increasing the production of the Krupp Works, both in peace and war, in your spirit and for the benefit of our people.

Our special thanks go to you, my Fuehrer, also for the great honor and recognition which you have awarded, in the introduction to your decree, to 132 years of the work of Krupps, the work of Krupps done by many generations of faithful followers, and steered and directed by four generations of the family Krupp.

Your grateful

signed: BERTHA KRUPP VON BOHLEN UND HALBACH

née Krupp

signed: GUSTAV KRUPP VON BOHLEN UND HALBACH

C. Discussion Between the Prosecution and the Tribunal on the Legal Significance of Violations of Rearmament Clauses of the Versailles Treaty[1]

MR. KAUFMAN, Deputy Chief Counsel: The prosecution now wishes to offer in evidence as Exhibit 135, Document NIK–12057,[2] found in document book 5–A, on page 67 of the English and page 106 of the German. This is a memorandum by Semler, General Counsel of the Reichswehrministerium, the War Ministry, in

[1] This discussion is recorded in mimeographed transcript, 10 December 1947, pp. 243–247.
[2] This exhibit is reproduced in section B 1.

which he sets forth the legal opinion that under the Treaty of Versailles all mobilization and related measures are illegal. This document is dated 7 January 1927.

JUDGE WILKINS, Presiding: Exhibit 135 will be admitted.

MR. KAUFMAN: I refer to page 67, right at the beginning, the title is "Legal Opinion on the Question of Whether a Legal Basis can be Established for Mobilization Measures."

> "The Peace Treaty of Versailles contains some very explicit provisions for the strength and structure of the German Wehrmacht regarding arms and equipment, in terms of munitions and material as well as for recruiting and training. These stipulations were further elaborated in regard to various points by special regulations."

Of course he is referring there to the Allied Commission regulations which are now in evidence. Then he goes on to say, referring to Article 160, paragraph 2, of the Treaty:

> "* * * that the army is destined to serve merely for maintaining order within the German boundaries, and to serve as a border police or as border guard," which is what that article says, exactly, in the Treaty.
>
> "Article 178 explicitly forbids all mobilization measures or such measures as point to a mobilization."
>
> Page 68, which is page 3 of the original, just before page 4.
>
> "The Peace Treaty of Versailles first of all is a treaty concluded under international law."

That perhaps is an answer to the question of the president of the Court as to the effect of a violation of the treaty under international law.*

JUDGE ANDERSON: Read that again, please.

MR. KAUFMAN: "The Peace Treaty of Versailles first of all is a treaty concluded under international law." Then he goes on to say: "This being the case, it is binding for the German Reich. The Reich then has to take the responsibility for a violation of pledges made under international law."

That is on page 68 of the document book in English. Page 69 of the English, which is page 4 of the original just before page 5 of the original and about the middle of the page of the English:

> "Furthermore, the Peace Treaty of Versailles is also a law of the Reich, and by reason of this it is binding on all members of the Reich at home. This commitment ranks even superior

* Earlier, (*Tr. p. 215, 10 December 1947*) Presiding Judge Anderson had asked: "Now at this point let me ask you if the prosecution will maintain that rearmament, merely in violation of the treaty, constitutes a violation of international law?"

to the provisions of the constitution of the German Reich since Article 178, paragraph 2, second sentence of that constitution, provides that: 'The provisions of the Peace Treaty signed on 28 June 1919 in Versailles remain unaffected by the Constitution.' "

Q. Now, Mr. Kaufman, perhaps I should make myself clear with reference to the question I asked. Of course this is merely the opinion of one individual as to it. My question was—without indicating that I have any particular view about the matter—whether the prosecution shall insist that the mere rearmament in violation of the Treaty alone, unconnected with any acts of aggressive war, is a crime under international law. Now if you don't care to answer that question now, don't do so. I am not asking it for the purpose of getting the prosecution irrevocably committed. But it was just running through my mind and in order to clarify the position on that—

A. Under international law, our answer would be, "Yes, it is." Because it is undoubtedly a violation of the Versailles Treaty. Now, whether it would be a crime of which this Court will take notice, under the regulations under which we function, is another question.

Q. Well, yes. Assuming that—without deciding or intimating a decision—the rearmament was actually in violation of the Versailles Treaty, unless it be further shown that it was for the purpose of waging not merely war but aggressive war, would that be a crime under international law?

A. Well, my answer is, "Under international law, yes." May I explain that so as to make it clear? As I said earlier, it is an argument we feel we don't have to stress, but we so face it frankly. Rearmament, we assert and assert with confidence and we do not think that will be denied, is actually a violation of the Treaty. Certainly to the extent that rearmament was done by the German Government itself, there is no doubt about the fact that it is a violation of the Treaty. Being a violation of an international treaty, it is in violation of international law.

Q. Yes, but is it a crime?

A. As to whether or not it is a crime, that has to be answered as best we can, by the holding of the IMT that a violation of a treaty can be a crime even though not specified as a crime in the treaty. For instance, the Calabrinian [Kellogg-Briand] Pact specified that war shall not be used as an instrument of international or national policy in conduct with other nations—

Q. Well, we are probably putting the cart ahead of the horse. I understand your position to be that your case doesn't depend on that by any means?

A. It certainly does not.

Q. A mere violation, rearmament in violation of the Treaty. But that is one circumstance at least going to show, connected with the other circumstances, the planning and the waging of aggressive war?

A. That is right. I shall just add one observation, if it will be of help, and that is this: Any rearmament which is in violation of the Versailles Treaty, could only be for preparing Germany for war, some kind of war—defensive or offensive war, defensive or aggressive—

Q. That is quite true. But the point is, could you infer from that that the nature of the war for which the preparation was made was aggressive?

A. Well, that is the point I am trying to make. If we confine ourselves, which we feel we are not obliged to do for our case—

JUDGE DALY: Isn't your position summed up in the indictment, on the bottom of page 3 and the top of page 4, where it says: "including but not limited to planning, preparation, initiation, and waging wars of aggression, and wars in violation of international treaties, agreements and assurances."

MR. KAUFMAN: It is, Your Honor. As a matter of fact, that law as quoted there or as paraphrased there is the law not only of Control Law No. 10, but is also explicitly the law of the Charter which is so framed that it states the alternatives. The crime may be either preparing for or waging an aggressive war, a war of aggression, or in the alternative it may be preparing for or waging a war in violation of international treaties.

JUDGE ANDERSON: Which of itself would be a crime independent of any other proof of aggression?

MR. KAUFMAN: It would, under the wording of the Charter and of Control Law No. 10.

JUDGE ANDERSON: Well, we will perhaps want to hear you further on that. Go ahead.

* * * * * * *

D. Defense Motion for a Judgment of Not Guilty on Counts One and Four

Defense Motion for Acquittal on the Charges of Crimes Against Peace, 11 March 1948

I

The undersigned defense counsel move on behalf of their defendants [here follow the names of all twelve defendants] that the Tribunal should decide:

1. that the arguments of the prosecution on count one which brings the charge of crimes against the peace and count four insofar as it charges participation in a common plan and a conspiracy to commit crimes against the peace are insufficient for a verdict of "guilty" to be passed;

2. that the defense need not reply to this argument of the prosecution;

3. that the defendants are not guilty in this respect.

II

With this motion the defendants wish to contribute to a considerable speeding-up of the case.

With this motion the defendants intend to meet a request of the Court to restrict the presentation of evidence to important questions. After the conclusion of the prosecution's evidence they think they may say that the arguments of the prosecution will not suffice, for legal reasons alone, in respect of the points named in the motion under I, to convict the defendants, and that, therefore, a refutation by counterevidence is not required.

III

For a more detailed argument the defense refer to the document by Attorney Kranzbuehler submitted herewith.*

Nuernberg, 11 March 1948

Memorandum of Dr. Kranzbuehler, 11 March 1948, in Support of the Defense Motion for an Acquittal on the Charges of Crimes Against Peace

1. The prosecution accuses all the defendants:

a. Under count one.

"Of having committed crimes against peace by participating in the preparation of invasions of other countries and in wars of aggression in violation of international law and treaties under international law, including, but not restricted to the planning, preparation, initiation and waging of wars of aggression and wars in violation of international agreements and assurances."

b. Under count four.

"Of having participated in the formulation or execution of a common plan or conspiracy to commit, or which involved the commission of, crimes against peace."

The alleged actions of the defendants are said to represent violations of international law and crimes as defined in Article II of Control Council Law No. 10.

* The memorandum follows.

2. Control Council Law No. 10 was enacted—

"In order to give effect to the terms of the Moscow Declaration of 30 October 1943 and the London Agreement of 8 August 1945 and the Charter issued pursuant thereto * * *."

(Introduction to the Law)

In consequence thereof,

"The Moscow Declaration of 30 October 1943 'Concerning Responsibility of Hitlerites for Committed Atrocities' and the London Agreement of 8 August 1945 'Concerning Prosecution and Punishment of Major War Criminals of the European Axis' are made *integral parts* of this law." (Art. I, italics ours).

Thus the basic principles of the London Agreement coincide with the basic principles of the Control Council Law and govern the interpretation and application of this Law.

3. The London Charter and Control Council Law No. 10 were not intended to create new law, but to codify existing international law.[1]

"The Charter is not an arbitrary exercise of power on the part of the victorious nations, but * * * it is the expression of international law existing at the time of its creation."

Control Council Law No. 10 was similarly applied by American Military Tribunal IV in Case 5 against Friedrich Flick et al., only as a "Codification of International Law." The Tribunal commented:[2] "No act is adjudged criminal by the Tribunal which was not criminal under international law as it existed when the act was committed."

For the question to be decided here, the law to be applied according to the London Charter is the same as the law to be applied according to Control Council Law No. 10, namely, the international law in force *at the time* of the commission of the acts declared by the prosecution to be criminal.

The International Military Tribunal based its judgment upon this law in the proceedings against the major war criminals. This Tribunal will have to base its judgment upon this law.

4. All the defendants were accused before the International Military Tribunal of participation in a conspiracy or common plan for the commission of crimes against peace. Only 8 were sentenced, 14 were acquitted.

In addition to these eight who received sentences, another defendant was sentenced for the planning and preparation of wars

[1] Trial of the Major War Criminals, *op cit. supra*, vol. I, p. 218.

[2] United States *vs.* Friedrich Flick, et al., transcript p. 10976, 22 December 1947.

of aggression without his being found guilty of participation in the conspiracy or common plan to commit crimes against peace.

Thus the International Military Tribunal ascribed responsibility for the planning and preparation of wars of aggression to only 9 of the 22 accused major war criminals.

5. All the defendants before the International Military Tribunal were leading figures in German public life. All held the highest of political or military positions.

Twelve private persons were accused before this Tribunal of having committed crimes against peace.

This Tribunal will not apply stricter measures to their acts than that applied by the International Military Tribunal to the acts of the defendants who appeared before it.

6. The International Military Tribunal itself acknowledged with great solemnity the recognized legal principles of all civilized nations,[1] "* * * one of the most important of which is that criminal guilt is personal * * *."

The other Military Tribunals convening in Nuernberg also considered themselves bound by the legal principles which Military Tribunal IV enumerated in its judgment in Case 5:[2]

> "1. There can be no conviction without proof of personal guilt.
>
> "2. Such guilt must be proved beyond a reasonable doubt.
>
> "3. The presumption of innocence follows each defendant throughout the trial.
>
> "4. The burden of proof is at all times upon the prosecution.
>
> "5. If from credible evidence two reasonable inferences may be drawn, one of guilt and the other of innocence, the latter must be taken."

7. In order to pronounce sentence for participation in the conspiracy or the common plan to commit crimes against peace, the International Military Tribunal demanded that it be determined in the case of each defendant, not merely that he participated in a concrete plan to wage wars of aggression as a matter of external fact, but also, from the subjective view, that he had positive knowledge of Adolf Hitler's objectives.[3]

> "The Tribunal must examine whether a concrete plan to wage war existed and determine the participants in that concrete plan.

* * * * * * *

[1] Trial of the Major War Criminals, *op. cit. supra*, vol. I, p. 256.
[2] United States *vs.* Friedrich Flick, et al. (*Tr. p. 10977, 22 December 1947.*)
[3] Trial of the Major War Criminals, *op. cit. supra*, vol. I, pp. 225-226.

"Hitler could not make aggressive war by himself. He had to have the cooperation of statesmen, military leaders, diplomats, and business men. When they, *with knowledge of his aims,* gave him their cooperation, they made themselves parties to the plan he had initiated."

(italics ours.)

8. The International Military Tribunal thus requires a certain act and a certain state of mind in order to pronounce sentence under this charge.

The prosecution did not produce evidence to show that the defendants had engaged in a *certain act,* since the defense was convinced of such an act. The prosecution did not, however, absolutely demonstrate the existence of a *certain state of mind.*

9. A knowledge of the objectives or aggressive intentions of Adolf Hitler, as required by the International Military Tribunal for the subjective view, could, in the opinion of the judgment cited, have been acquired if the defendant—

a. Belonged to the inner, confidential circle around Hitler, or

b. Was present at certain interview of conferences where Hitler's aggressive plans were unmistakably laid down, or

c. Was directly informed of the four conferences of 5 November 1937, 23 May 1939, 22 August 1939, and 23 November 1939.

10. *Ad. a*—reference is made to the comments of the International Military Tribunal in sentencing Hess and on the acquittal of Schacht and Streicher.

Hess—"Until his flight to England, Hess was Hitler's closest personal confidant. Their relationship was such that Hess must have been informed of Hitler's aggressive plans when they came into existence."[1]

"[it is a] * * * fact that of all the defendants none knew better than Hess how determined Hitler was to realize his ambitions, how fanatical and violent a man he was, and how little likely he was to refrain from resort to force, if this was the only way in which he could achieve his aims."[2]

Schacht—"He was clearly not one of the inner circle around Hitler which was most closely involved with this common plan."[3]

Streicher—"There is no evidence to show that he was ever within Hitler's inner circle of advisers * * *."[4]

11. *Ad. b*—reference is made to the comments of the International Military Tribunal in the section, "The Planning of Aggres-

[1] Ibid., p. 284.
[2] Ibid., p. 283.
[3] Ibid., p. 310.
[4] Ibid., p. 302.

sion," in the sentencing of Keitel, Raeder, von Neurath and the acquittal of Bormann, Frick, Streicher, Doenitz and Fritzsche.

"* * * Hitler held four secret meetings to which the Tribunal proposes to make special reference because of the light they shed upon the question of the common plan and aggressive war.

"These meetings took place on 5 November 1937, 23 May 1939, 22 August 1939, and 23 November 1939.

"At these meetings important declarations were made by Hitler as to his purposes, which are quite unmistakable in their terms."[1]

Keitel—"* * * was present on 23 May 1939 when Hitler announced his decision 'to attack Poland at the first suitable opportunity.' "[2]

Raeder—"He was one of the five leaders present at the Hossbach Conference of 5 November 1937. * * * He was also one of the few chief leaders present at the meeting of 23 May 1939. He attended the Obersalzberg briefing of 23 August 1939."[3]

Von Neurath—"* * * took part in the Hossbach Conference of 5 November 1937."[4]

Bormann—"He attended none of the important conferences when Hitler revealed piece by piece these plans for aggression."[5]

Frick—"The evidence does not show that he participated in any of the conferences at which Hitler outlined his aggressive intentions."[6]

Streicher—"He was never present * * * at any of the important conferences when Hitler explained his decisions to his leaders."[7]

Doenitz—"He was not present at the important conferences when plans for aggressive wars were announced * * *."[8]

Fritzsche—"Never did he achieve sufficient stature to attend the planning conference which led to aggressive war * * *."[9]

12. Note c—reference is made to the comments of the International Military Tribunal in acquitting Doenitz and Fritzsche.

Doenitz—"* * * and there is no evidence he was informed about the decisions reached there."[10]

13. In this case the prosecution did not maintain that the defendants had acquired knowledge in either of the ways men-

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[1] Ibid., p. 188.
[2] Ibid., p. 288.
[3] Ibid., p. 315.
[4] Ibid., p. 334.
[5] Ibid., p. 339.
[6] Ibid., p. 299.
[7] Ibid., p. 302.
[8] Ibid., p. 310.
[9] Ibid., p. 337.
[10] Ibid., p. 310.

tioned of Adolf Hitler's aggressive plans. Without such a determination, however, it is impossible to pronounce sentence because of participation in the conspiracy or common plan to commit crimes against peace.

Insofar the defendants should be acquitted.

14. The International Military Tribunal sentenced one defendant, namely Funk, only for the planning and preparation of a war of aggression. Concerning him the judgment determined:

> "Funk participated in the economic planning which preceded the attack on the U.S.S.R. His deputy held daily conferences with Rosenberg on the economic problems which would arise in the occupation of Soviet territory. Funk himself participated in planning for the printing of ruble notes in Germany prior to the attack to serve as occupation currency in the U.S.S.R."
>
> "He did * * * participate in the economic preparation for certain of the aggressive wars, notably these against Poland and the Soviet Union * * *."*

The passing of a sentence for the planning and preparation of an aggressive war thus assumes objective participation according to the International Military Tribunal judgment, and presumes the subjective knowledge of a concrete aggressive plan against a certain country.

15. In the present case the prosecution did not maintain, much less prove, that the defendants participated in the preparation of a certain war with knowledge of a concrete aggressive plan.

They should be acquitted of the charge of the planning and preparation of an aggressive war.

16. The prosecution apparently wishes to show that the defendants could and must have known of Hitler's aggressive intentions. But such evidence would not be decisive.

A general knowledge of the possibility or probability of a war is insufficient evidence to enable the International Military Tribunal to pronounce sentences. The judgment requires it to be determined, in the case of each defendant, as to whether he actually had *special, positive knowledge of certain aggressive plans.*

This is shown not only by previous quotations, but with particular clarity by the comments of the International Military Tribunal in acquitting Schacht.

> "It is clear that Schacht was a central figure in Germany's rearmament program, and the steps which he took * * * were responsible for Nazi Germany's rapid rise as a military power.

* Ibid., p. 305.

But rearmament of itself is not criminal under the Charter. (Italics ours.)

"The case against Schacht therefore depends on the inference that Schacht *did in fact know of the Nazi aggressive plans.*"[1] (Italics ours.)

17. Finally, the assertion by the prosecution that the defendants participated in the *waging* of an aggressive war is not conclusive in view of the objective facts.

The International Military Tribunal sentenced three of the defendants namely, Doenitz, Frick, and Seyss-Inquart, solely for the waging of wars of aggression. The reasoning in the judgment shows that a sentence under this charge requires the highest political or military responsibility.

Frick—"* * * under the provisions of the Reich Defense Law of 4 September 1938, Frick became General Plenipotentiary for the Administration of the Reich. *He was made responsible for war administration,* except the military and economic, in the event of Hitler's proclaiming a state of defense * * *. Performing his allotted duties, Frick devised an administrative organization in accordance with wartime standards. According to his own statement, this was actually put into operation after Germany decided to adopt a policy of war."[2] (Italics ours.)

Seyss-Inquart—"* * * he assumed responsibility for governing territory which had been occupied by aggressive wars and the administration of which was of vital importance in the aggressive war being waged by Germany."[3]

Doenitz—"The U-boat arm was the principal part of the German fleet and Doenitz was its leader * * * the real damage to the enemy was done almost exclusively by his submarines as the millions of tons of Allied and neutral shipping sunk will testify. Doenitz was *solely in charge* of this warfare."[4] (Italics ours.)

18. The prosecution has, in this case, merely maintained that the defendants promoted war production and thereby made a contribution to the war. This is not sufficient.

The International Military Tribunal did not even consider the activity of the Reich Minister for the entire German war production as sufficient cause to pronounce a sentence [of guilt]. Speer was acquitted of the charge of crimes against peace, since—

[1] Ibid., pp. 308–310.
[2] Ibid., p. 299.
[3] Ibid., p. 328.
[4] Ibid., pp. 310–311.

"His activities in charge of German armament production were in aid of the war effort in the same way that other productive enterprises aid in the waging of war; but the Tribunal is not prepared to find that such activities involve engaging in the common plan to wage aggressive war * * * or waging aggressive war * * *."[1]

The fact that the entire German economy was controlled by the State during the war is recognized by the Court and has been satisfactorily demonstrated by the prosecution itself. If the supreme *control* of the entire armaments industry exercised by the competent Reich Minister was not considered to be participation in the waging of the war, then surely *the control of an individual enterprise* exercised by a private technician or business man can not be considered to be "waging of war."

19. To summarize—

a. The evidence of the prosecution is not sufficient to find the defendants guilty of participation in a conspiracy or a common plan to commit crimes against peace, or of a crime against peace committed by the planning or preparation of an aggressive war, because the prosecution has not maintained that they actually had knowledge of concrete aggressive plans.

b. The evidence of the prosecution is not sufficient to find the defendants guilty of a crime against peace committed by the waging of an aggressive war, since their activities in the war economy are not to be considered as the waging of war.

On behalf of (in Vertretung)

Attorney at Law Kranzbuehler

(Signature) DR. WECKER

[Signed] KRANZBUEHLER

Nuernberg, 11 March 1948

E. Extract from Prosecution's Answer to Defense Motion for Acquittal on Charges of Crimes Against Peace

Excerpt from the Answer of the Prosecution to Motion of Defense for Acquittal on Charges of Crimes Against Peace[2]

The following answer is made to the motion of the defense [filed] 12 March 1948 for acquittal on the charge of crimes against peace.

[1] Ibid., pp. 330–331.

[2] Filed on 22 March 1948.

The motion of the defense is not well-founded and should be denied for the following reasons:

1. The position of the defense is contrary to the judgment of the International Military Tribunal and if sustained would make that judgment meaningless.

2. The position of the defense is contrary to the basic concepts and provisions of Control Council Law No. 10, which govern the jurisdiction of and the law to be applied by this Tribunal.

The prosecution submits herewith in support of its answer a "Preliminary Memorandum Brief"[1] with respect to count one and count four, such brief being incorporated as a part of the answer. The Tribunal's attention is also invited to an "Answer to the Defense Motion for a Finding of Not Guilty on Count One and Count Five, filed in the I.G. Farben Case[2], such answer being pertinent to issues raised by the motion of the defense in this case.

Index[3]

[To prosecution's answering brief to defense motion for acquittal on charges of crimes against peace.]

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[1] Filed on 20 March 1948.

[2] See the Aggressive War sections in the I. G. Farben Case, United States *vs.* Carl Krauch, et al., Case 6, Volumes VII–VIII.

[3] Complete index is included here to show the extent of the prosecution's reply. Page numbers refer to the page numbers in the original brief.

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COUNTS ONE AND FOUR

PLANNING, PREPARATION, INITIATION, AND WAGING OF WARS OF AGGRESSION AND INVASIONS OF OTHER COUNTRIES

and

COMMON PLAN OR CONSPIRACY

I. INTRODUCTION

This preliminary brief relates to counts one and four of the indictment. Count one sets forth the activities which, it is charged, constitute the commission of crimes against peace. Specifically incorporated into count one as constituting activities which were an integral part of the planning, preparation, initiation, or waging of wars of aggression and invasion of other countries are the allegations contained in count two relating to plunder and spoliation of property and the allegations contained in count three relating to slave labor. Count four sets forth the activities which, it is charged, constitute the crime of conspiracy to commit crimes against peace.

II. APPLICABLE LAW

This proceeding is brought pursuant to the provisions of Military Government Ordinance No. 7, and Control Council Law No. 10. Article II defines acts each of which is recognized as a crime, with crimes against peace being defined as follows:

Crimes against Peace. Initiation of invasions of other countries and wars of aggression in violation of international laws and treaties, including but not limited to planning, preparation, initiation or waging a war of aggression, or a war in violation of international treaties, agreements or assurances or participation in a common plan or conspiracy for the accomplishment of any of the foregoing.

Article II further provides that any person without regard to nationality or the capacity in which he acted is deemed to have committed a crime as defined in Article II if he (*a*) was a principal; or (*b*) was an accessory to the commission of any such crime or ordered or abetted the same; or (*c*) took a consenting part therein; or (*d*) was connected with plans or enterprises involving its commission; or (*e*) was a member of any organization or group connected with the commission of any such crime; or (*f*) with reference to crimes against peace, if he held a high political, civil, or military (including general staff) position in Germany or in one of its Allies, cobelligerents, or satellites, or held a high position in the financial, industrial, or economic life of any such country.*

* The provision (*f*), applicable only with respect to crimes against peace, is not intended, we believe, to attach criminal guilt automatically to all holders of high industrial positions. It does require, however, that the fact that a person held such a position be taken into consideration together with all the other evidence in determining the extent of his knowledge and participation.

Ordinance No. 7, issued by the Military Governor of the American Zone pursuant to the authority conferred by Law No. 10, provides in Article X that:

> "The determinations of the International Military Tribunal in the judgments in Case No. 1 that invasions, aggressive acts, aggressive wars, crimes, atrocities or inhumane acts were planned or occurred, shall be binding on the tribunals established hereunder and shall not be questioned except insofar as the participation therein or knowledge thereof by any particular person may be concerned. Statements of the International Military Tribunal in the judgment in Case No. 1 constitute proof of the facts stated, in the absence of substantial new evidence to the contrary."

The International Military Tribunal has determined that the invasions and wars referred to in counts one and four occurred; it has found that these invasions and wars were aggressive in character and were in violation of international treaties, agreements or assurances.[1] Treaties found to be violated, *inter alia*, were the Hague Conventions, the Versailles Treaty, including the violation of the Articles prohibiting the fortification of the left bank of the Rhine, and the Kellogg-Briand Pact.[2]

III. SCOPE OF CRIMES AGAINST PEACE

There is no need in this brief to attempt an all-inclusive statement of what is covered under crimes against peace in Control Council Law No. 10. We submit that under the provisions of such law as well as under the principles of international law, crimes against peace comprehend at least that any person, without regard to nationality or the capacity in which he acts, commits a crime against peace if he knowingly participates in developing, furthering, or executing a national policy of aggrandizement on the part of a country to use force in order (*a*) to take from the peoples of other countries their land, their property, or their personal freedoms, or (*b*) to violate international treaties, agreements or assurances; or if he knowingly participates in a common plan or conspiracy to accomplish the foregoing.

It is, of course, academic for the purposes of this case to consider whether for the commission of crimes against peace under Control Council Law No. 10 the actual use of force by threat or otherwise is essential, since the force was actually used.

IV. THEORY OF PROSECUTION WITH RESPECT TO COUNTS ONE AND FOUR

a. Introduction

The defendants in this case include the surviving, leading executives of the Krupp firm who controlled its policies and activities immediately prior to and during the Second World War. How-

[1] Trial of the Major War Criminals, vol. I, *op. cit. supra*, pp. 204, 209, 210, 213, 215, and 216. The Charter under which the International Military Tribunal acted did not define as a crime against peace, "initiation of invasions of other countries"; Control Council Law No. 10 does. The indictment filed before that Tribunal did not charge participation in either the invasion of Austria on 12 March 1938, nor that of Czechoslovakia on 10 October 1938 and 15 March 1939 as a crime against peace under count two. However, the International Military Tribunal, in the course of its opinion said: "The invasion of Austria was a premeditated aggressive step in furthering the plan to wage aggressive war against other countries," and characterized it as an "aggressive act." (*op. cit., supra*, pp. 192, 291.) It described the events by which Czechoslovakia was absorbed as "The Seizure of Czechoslovakia" (*op. cit., supra* p. 194), and the individual judgments leave no doubt that the Tribunal considered it as having been brought about through aggressive action. (*op. cit., supra* [Hess] p. 283, [von Ribbentrop] pp. 285–286, [Seyss-Inquart] p. 328.)

[2] Ibid., pp. 216–218.

ever, both the war and the crimes which were its inevitable concomitants had their seeds in a period which preceded by many years the defendants' control of the Krupp firm. The policies the decisions, the course of conduct which led Germany, and Krupp with it, into a Second World War were not, initially, the conception of these defendants. They approved and continued them, however, when they in turn came into power and into control of the Krupp firm. Neither under them nor their predecessors has the firm ever deviated from the tradition which led Justice Jackson to describe it as "the focus, the symbol, and the beneficiary of the most sinister forces engaged in menacing the peace of Europe." *

From the First World War, the Krupp firm has conspired against the peace of Europe. Like the Nazi Party, it has nurtured at all times the idea that Germany would rise to power through its military might. In 1933, it entered into an alliance with that Party for the realization of their common objectives. Its activities, both before and after this alliance, contributed materially to Germany's ability to wage its wars of aggression. As new people came into positions of control in Krupp they continued the conspiracy which, starting in 1919, lasted at least until the defeat of Germany.

b. The Defendants Participated in a Common Plan or Conspiracy to Commit Crimes Against Peace

The acts of the individual defendants which we charge show that their participation in the preparation and waging of aggressive war under count one are the same acts which are relied on as showing their participation in the conspiracy charged under count four. The elements of the crime in both instances are substantially the same and the same evidence has been presented in support of both charges. Regardless of whether an individual or a group is charged, it is still necessary to show both act and intent. That is to say, it must still be demonstrated that the acts committed were of such a character as to constitute either the preparation or waging of war[1] and that they were done with the necessary criminal intent.[2] The crime of conspiracy, however, has certain characteristics and consequences which make it peculiarly applicable to the circumstances of this case.

[1] Part "C" of part IV of this brief is devoted to this point.

[2] Part "D" of part IV of this brief is devoted to this point.

The crime of conspiracy, ancient and well known, condemns the joining together of persons to pursue unlawful ends by legal or illegal means. The gravamen of the crime is association or act-

* Ibid., p. 134.

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ing in concert for the purpose of formulating or executing a common plan involving criminal ends. Those who participate in a common plan or conspiracy become liable for the acts of every other conspirator committed in pursuance of the conspiracy during its continuance even if committed prior to their entry into it. If the conspiracy is illegal, each member of it is guilty of criminal conduct although he may have committed no illegal act himself. This is so, regardless of the disparities in the functions performed by individual conspirators. Since the completed act is the product of concerted action, all those who contribute to the attainment of the objective are guilty, regardless of the role each may have played in furtherance of the common design.*

* Wharton's Criminal Law (12th Ed.), vol. II, secs. 1667–1675, pp. 1938–1949.

Conspiracy fits peculiarly well the facts of this case. Each of the defendants in this case, through his own actions, participated in the preparation and later in the waging of aggressive war. But the value of the efforts of each lay in its relationship to what the others were doing. No one of them alone was capable of preparing Germany for aggressive war, nor even of taking very effective action toward that end. It was only through their combined efforts, through the relationship of their activities one to another, that the Krupp firm was able to make the substantial contribution it did in preparing Germany for war and then to assist her in waging such war. The conspiracy was larger than any of the men in it. It could have continued without any one of them; it could not have continued without all.

What was done by each of the defendants was done in the implementation of the common plan and program. Each one of the defendants had his role in the conspiracy. Each one, in his own sphere, was vital to the functioning of the Krupp firm. The program which the firm carried out was a common program.

The objective of the conspiracy charged was the preparation and waging of aggressive war, as is more fully set forth hereinafter. Everything done by the Krupp firm from 1919 until 1945 first to prepare and then to assist Germany in waging its criminal wars was done as part of a common plan, in pursuit of that objective. Each year built on its predecessors. It would not have been possible to produce submarines in 1935 in apparently 3 months, if not for the work done from 1922 to 1932; to build howitzers in 1938, if not for that done in 1928; to build tanks in 1934, if not for that done from 1926 to 1932. The list is endless.

Those who took charge of the Krupp firm in the years immediately prior to the war accepted the benefit of what had already

been done in pursuit of the common objective and built upon it. What Gustav Krupp and Buschfeld and Oesterlen started in 1919 and 1920, Loeser, Alfried Krupp, and Goerens completed in 1937 to 1939.

If, as the prosecution contends, the activities of the Krupp firm prior to 1933 were part of the preparation for Germany's criminal wars of aggression, then under the established principles of the law of conspiracy, Alfried Krupp, Loeser, and other defendants who dominated the Krupp firm and controlled it in the latter years of the conspiracy, are as liable for those activities as those of the defendants who were in the conspiracy from the beginning.

The judgment of the International Military Tribunal does not preclude a finding of guilty under count four of this indictment. The conspiracy charged here is not the "Nazi conspiracy" charged in count one of the indictment filed before that Tribunal, with which its judgment deals, but is a conspiracy to do the acts of the character charged under count two of that indictment. That is, both counts one and four of the indictment filed before this Court charge acts of the character subsumed under count two of the indictment filed before the IMT.

The distinction which the IMT draws between count one, which charged the common plan or conspiracy, and count two, which charged planning, preparation, initiation, and waging of war, is very clear.*

* This distinction is further discussed in "D" of part IV of this brief in connection with the question of criminal intent and knowledge.

It was the theory of the prosecution before the International Military Tribunal that the Nazi Party was, in effect, a giant conspiracy for the waging of aggressive war and that any significant participation in its affairs was evidence of participation in a criminal conspiracy. The IMT clearly felt that the charges contained in the indictment were too broad. The judgment stated that the conspiracy had to be* "clearly outlined in its criminal purpose" and could not be "too far removed from the time of decision and of action." Superimposing these limitations—the necessity for a clearly defined conspiracy in time and purpose—on the evidence which the prosecution had presented in support of the indictment, which charged a conspiracy with Hitler at its center, the IMT was willing to consider as parties to such a conspiracy only those persons who were kept informed by Hitler of his detailed plans and consequently placed great emphasis on attendance at four secret meetings, at which Hitler revealed his plans. Only three persons not present at these meetings were

* Trial of the Major War Criminals, vol. I, *op. cit. supra*, p. 225.

found to be parties to the conspiracy: Hess, who was Hitler's closest personal confidant,[1] "must have been informed of Hitler's aggressive plans when they came into existence"; Rosenberg,[2] "who was one of the originators of the plan for attacking Norway"; and von Ribbentrop, who participated in several other conferences and whose[3] "diplomatic efforts were so closely connected with war that he could not have remained unaware of the aggressive nature of Hitler's actions." The four meetings, which the Court considered to show common planning, took place on 5 November 1937—the so-called Hossbach Conference—23 May 1939, 22 August 1939, and 23 November 1939.[4] The significance which the Court attached to these meetings is reflected throughout the judgment. Thus, Frick[5] is acquitted under count one because "The evidence does not show that he participated in any of the conferences at which Hitler outlined his aggressive intentions"; Streicher,[6] because "He was never present, for example, at any of the important conferences when Hitler explained his decisions to his leaders"; Doenitz,[7] because "He was not present at the important conferences when plans for aggressive wars were announced and there is no evidence he was informed about the decisions reached there"; Fritzsche,[8] because "Never did he achieve sufficient stature to attend the planning conferences which led to aggressive war"; and Bormann,[9] because "He attended none of the important conferences when Hitler revealed piece by piece these plans for aggression." Conversely, Goering[10] was found guilty under count one because he "was one of the five important leaders present at the Hossbach Conference of 5 November 1937 and he attended the other important conferences already discussed in this judgment"; Keitel,[11] because he "was present on 23 May 1939 when Hitler announced his decision 'to attack Poland at the first suitable opportunity' "; Raeder,[12] because "He was one of the five leaders present at the Hossbach Conference of 5 November 1937"; and von Neurath,[13] because he "took part in the Hossbach conference of 5 November 1937."

However, to be guilty of participation in the preparation and waging of aggressive war under count two it was not necessary that the individual be one of the small circle of conspirators around Hitler, nor be informed of the decisions taken in that circle. Participation in the preparation and waging of aggressive

[1] Ibid., p. 284.
[2] Ibid., p. 294.
[3] Ibid., p. 287.
[4] Ibid., p. 188.
[5] Ibid., p. 299.
[6] Ibid., p. 302.
[7] Ibid., p. 310.
[8] Ibid., p. 337.
[9] Ibid., p. 339.
[10] Ibid., p. 279.
[11] Ibid., p. 288.
[12] Ibid., p. 315.
[13] Ibid., p. 334.

war was obviously considered a crime different from participation in the common plan to wage aggressive war. Funk,[1] who "was not one of the leading figures in originating the Nazi plans for aggressive war," but did "participate in the economic preparation for certain of the aggressive wars," was found guilty under count two; Frick, Funk, Doenitz, and Seyss-Inquart, none of whom were deemed sufficiently privy to Hitler's plans to be convicted under count one of conspiracy, were all convicted under count two. No defendant, however, convicted under count one was acquitted under count two.

The judgment indicates that the Tribunal was unwilling to hold criminally responsible persons who may have participated in the conspiracy much in advance of the date of the Hossbach Conference on 5 November 1937, but who failed to play a significant role in the conspiracy thereafter. So, in deciding that the Reich cabinet was not a criminal group the Court gives as a reason for its decision that "it is not shown that after 1937 it ever really acted as a group or organization" and explains that "As to the first reason for our decision, it is to be observed that from the time that it can be said that a conspiracy to make aggressive war existed, the Reich cabinet did not constitute a governing body, but was merely an aggregation of administrative officers subject to the absolute control of Hitler."[2]

Clearly, however, the preparations made for aggressive war long preceded 5 November 1937. The International Military Tribunal, in fact, in reciting the facts upon which it relies in finding particular defendants guilty of crimes against peace under counts one and two refers to events long prior to "the time that it can be said that a conspiracy to make aggressive war existed." So, Raeder's activities in building up the navy in violation of the Versailles Treaty are referred to in his individual judgment, as are von Neurath's activities in connection with the withdrawal from the Disarmament Conference and the League of Nations in October 1935 and the institution of rearmament.

The conclusion follows from all this that participation in the preparation or waging of aggressive war is a crime different from the crime of participation in the common plan conceived by Hitler to wage aggressive war; that to be guilty of such participation it is not necessary to attend the conferences at which aggressive war was planned, or to be advised as to what took place at them; and that such participation may take place even in advance of the crystallization of a conspiracy to wage aggressive war.

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[1] Ibid., p. 305.

[2] Ibid., p. 275.

Since Control Council Law No. 10 makes not only the preparing or waging of aggressive war criminal, but also participation in a common plan or conspiracy having as its objective such preparing or waging, it follows that participation in a plan or conspiracy for the accomplishment of acts of the character adjudged by the International Military Tribunal to constitute preparing or waging under count two of the indictment filed before that Tribunal, is criminal, even though neither the conspiracy nor the acts form part of the "Nazi conspiracy" charged under count one.

Both law and logic support this conclusion. If an individual can be guilty of preparing for, or waging aggressive war, even though he did not participate in the conspiracy around Hitler, there would appear to be no reason why a group of individuals should not be held responsible for collectively conspiring toward that same end. It seems clear beyond doubt that this is what the defendants in this case did. Acting together, but not as part of the "Nazi conspiracy," they took action that had as its object, first to prepare, and then to wage aggressive war.

The position of the defendants in this case differs materially from that of the defendants charged with conspiracy before the International Military Tribunal. Everything these defendants did, they clearly did in concert with one another. The end achieved, whether legal or illegal, was accomplished through their collective action. Of association and action in concert there can be no doubt. Proof of conspiracy rests on the establishment of the other element necessary to make association and action in concert illegal, namely, that it be taken for unlawful ends. This was not true of the defendants before the International Military Tribunal. The actions of the defendants in that case, taken in widely separate and different fields of activity, could be considered as taken in concert only if it could be proved that they had been taken pursuant to a common plan. There both elements of conspiracy had to be established: action in concert and unlawful ends. Proof of action in concert, in the opinion of the International Military Tribunal, required both a common plan and knowledge of such a plan. In short, before any defendant could be guilty of conspiracy, even though his activities had contributed to the objective of the conspiracy, it had to be shown that he had acted pursuant to a common plan of which he had knowledge. Only then would the Court consider his actions to have been taken in concert with the other defendants.

But proof of concerted action in this case rests on no such elaborate structure. The elements of conspiracy must still be shown, but the proof is simpler since it is not necessary to relate to each other conduct by persons operating in widely separate

fields, but only to show that acts—which clearly were the product of joint action by a small group working in close association—had a criminal objective. These requirements are clearly met by the proof adduced in this case.

The illegal end which the defendants joined together to pursue was first to prepare and then to assist Germany "to fight to rise" again. This is the formulation which they themselves gave to their activities, and it is borne out by the character of the actions taken by the conspiracy from the time of its initiation in 1919. The history of the Krupp firm shows that since 1919 it had been assisting Germany to prepare for war; that its leader Gustav Krupp was instrumental in bringing into power the Nazi Party, whose program committed it to war; and that it had never slackened in its activities even after 1938, when it was manifest that Germany's military power would be used to take from other countries whatever Germany coveted. When Germany attacked Poland in violation of international treaties, thus starting a war of aggression, the firm was as active in exploiting the resources and labor of the conquered countries and in otherwise providing the means of waging the war as it had been in preparing for it. "Preparing" and "waging" aggressive war were the objectives of the conspiracy.

The Krupp conspiracy continued until and during the criminal wars it had helped bring about. These defendants do not stand accused for activities many years past and long since abandoned. The fact that the conspiracy had its inception long before the outbreak of war does not make the actions taken in furtherance of that conspiracy immediately prior to, and during the war, remote from the war; the conspiracy continued up to and including the time of decision and action.

c. The Acts of the Defendants Constitute Participation in the Preparation and Waging of Aggressive War as Defined in Control Council Law No. 10

The defendants in this case are not accused because they are engaged in the manufacture and sale of arms. It is not armament manufacture as such that is under attack here any more than it is the profession of arms that is under attack in the Military [High Command] Case,[1] nor that of diplomacy in the Ministries Case,[2] it is the utilization of these fields and capacities in the interests of a criminal program. Where the armament manufacturer directs all his activities to bring about and to

[1] United States *vs.* Wilhelm von Leeb, et al., Case 12, Volumes X–XI.
[2] United States *vs.* Ernst von Weizsaecker, et al., Case 11, Volumes XII–XIV.

further a national policy of aggrandizement to take from the peoples of other countries their land, their property or their personal freedom, he is a participant in a criminal program. Equally, if his purpose is to assist in a war in violation of international treaties, he is such a participant.

It is an innocent and respectable business to be a locksmith; but it is nonetheless a crime, if the locksmith turns his talents to picking the locks of neighbors and looting their homes. The accusation in all these cases where crimes against peace are charged is that, in performing the functions of diplomats, politicians, soldiers, industrialists, or whatever the defendants happen to be, they prepared and waged wars of aggression. It is no defense for those who committed such crimes to plead that they practice a particular profession.

In the nature of things, preparing and executing aggressive war is accomplished through the action of all types of a nation's leaders. And if the leaders in any important field or activity stand aside, or resist, or fail to cooperate, then the criminal program will, at the very least, be seriously obstructed. That is why the principal leaders in all fields of activity share responsibility for the crimes, and businessmen no less than the others. As the International Military Tribunal states in its judgment:

> "Hitler could not make aggressive war by himself. He had to have the cooperation of statesmen, military leaders, diplomats, and businessmen."*

There can be no doubt that the defendants in this case bear a substantial responsibility for furthering the military power of Germany and for taking other action that had as its purpose the use of military power against other countries for Germany's aggrandizement. We are not here concerned with persons whose activities impinged only incidentally or involuntarily upon the fields vital to preparing or waging a war. It is not necessary to decide whether or not each and every one of the activities of the defendants constitutes in itself participation in crimes against peace. Some of them, we believe, constitute such participation without considering the others, but certainly all of them together constitute participation in any conceivable sense of the word.

Of its own volition, and in defiance of international and domestice law, the Krupp firm from the end of the First World War preserved its armament potential and carried on designing and development work in all fields of armament; from 1919 to 1933, working in close cooperation with the military forces in Germany, it designed, constructed, and tested submarines and tanks, both

* Trial of the Major War Criminals, *op. cit. supra*, vol. I, p. 226.

necessary to an offensive war, so that by the time of the seizure of power, mass production of both weapons could commence; in 1933 the leader of the Krupp firm used his position and prestige to bring into, and keep in, power in Germany the Nazi Party, which was committed to a policy of national aggrandizement through force; the Krupp firm thereafter continued to support the Nazi Party through financial contributions; its connections abroad were used to disseminate propaganda to conceal the real nature of the Nazi Party, as well as to secure information of a military character; from the time of the seizure of power the firm cooperated with every aspect of the preparation of the Nazis for war; with its assistance, the Nazis were able to produce immediately tanks, submarines, medium and antiaircraft artillery in large numbers; after the repudiation of the Versailles Treaty and the remilitarization of the Rhineland, both conditions precedent to military action, the Krupp firm intensified its armament activities; in anticipation of war with England, Krupp undertook to supply the armament to build a navy to match that country's; it designed and built tanks and medium and heavy artillery and participated in the mass production of these armaments on a scale which indicated the aggressive intentions of the Nazi government; it fortified the West Wall; it constantly expanded its armament potential in every field both to meet the requirements of the German war machine in preparation of war and in anticipation of its needs in the event of war; its exports were coordinated with Nazi foreign policy and were designed to secure foreign exchange and war materials as part of the preparation for war; through the Four Year Plan, the Economic Group Iron Producing Industry (Wirtschaftsgruppe Eisenschaffende Industrie), the Association of the German Iron Foundry Men (Vereinigung Deutscher Eisen- und Huettenleute) and its own research, the Krupp firm cooperated with the self-sufficiency program of the Nazis after its aggressive purpose had been made clear; after the commencement of the criminal wars of the Nazis, the Krupp firm plundered Europe and ruthlessly made use of the labor of the occupied countries in the interest of Nazi aggression; plants in Austria, France, and Russia, machinery in France, Russia, and Holland, mines in Yugoslavia and France were all exploited to serve the military needs of Germany; prisoners of war, conscripted workers, religious persecutees, and other slave labor were impressed into the service of Germany's war machine. All of these facts, although presented separately, are not to be viewed separately. They all had one end and purpose: first to prepare Germany for a war of aggrandizement and then to assist her in waging it.

There can, therefore, be no doubt that, as a matter of fact, the activities of the Krupp firm contributed materially to the preparation and waging of war. As a matter of law under the specific language of Control Council Law No. 10 and the judgment of the International Military Tribunal, such activities constitute crimes against peace.

The activities of these defendants were economic and political in character. That is, they contributed to the preparation and waging of war not by direct military action but by supporting a policy of national aggrandizement. Primarily, these defendants assisted in marshaling the resources first of Germany and then of the conquered countries to increase the military power of Germany.

The opinion of the International Military Tribunal clearly shows that activities of this character constitute both participation in the preparation for war and in the waging of war. That is plainly reflected in the individual judgments relating to Schacht, Funk, Hess, Seyss-Inquart, and Rosenberg.

The two defendants before the IMT whose activities before the outbreak of war were most nearly analogous in character to those of the defendants here were Schacht and Funk. Both were responsible for the economic preparation for war, Funk having succeeded Schacht in his public offices. Although the Court acquitted Schacht of the commission of crimes against peace, it left no doubt that in its opinion, economic preparation for war would be a crime against peace if done with the necessary criminal intent. The International Military Tribunal squarely places its decision on the ground that the prosecution failed to establish "that Schacht did, in fact, know of the Nazi aggressive plans" at the time of his significant activities. Without such knowledge Schacht, clearly, did not have the necessary criminal intent and consequently, was not guilty. (See discussion under "D" of part IV of this brief, *infra.*) Clearly, a primary reason for the Tribunal reaching this conclusion was the fact that Schacht discontinued his activities when the actions of the Nazis put beyond question their aggressive character. Such discontinuance supported the conclusion that Schacht had never intended to assist or further the Nazi plans. These defendants, unlike Schacht, continued their activities, and even intensified them, long subsequent to the period when Schacht ceased to be active.

That the International Military Tribunal considered participation in the rearmament program criminal where the necessary intent existed is best demonstrated by the fact that it found Schacht's successor, Funk, who took office "after the Nazi plans to wage aggressive war had been clearly defined" and thus could

not plead lack of intent, guilty under count two. Funk succeeded Schacht as Minister of Economics, Plenipotentiary for War Economy, and president of the Reich Bank. As such he was responsible for many details of the "economic preparation" for aggressive war. While the International Military Tribunal was unwilling to find him guilty under count one because he "was not one of the leading figures in originating the Nazi plans for aggressive war,"[1] it did find his activities criminal under count two.

In finding Hess guilty under counts one and two, the International Military Tribunal recited the fact that "Throughout the years he supported Hitler's policy of vigorous rearmament in many speeches. He told the people that they must sacrifice for armaments, repeating the phrase, 'Guns instead of butter.'"[2]

Just as "preparation" for aggressive war may be purely economic in character, so may "waging." Seyss-Inquart, an Austrian lawyer whose activities on behalf of the Nazis were completely nonmilitary in character, was found guilty by the International Military Tribunal under count two. His task was to administer the countries invaded by the Nazi conspirators, first Austria, then Poland and the Netherlands and to exploit them for the benefit of the Nazi regime. In its finding of guilt under count two the International Military Tribunal stressed the fact that, as administrator in Poland and the Netherlands,* Seyss-Inquart marshaled their resources to assist in the Nazi wars of aggression. The judgment of the International Military Tribunal stated that, "In these positions he assumed responsibility for governing territory which had been occupied by aggressive wars and the administration of which was of vital importance in the aggressive war being waged by Germany."[3] The judgment also cited his statement "that Poland was to be so administered as to exploit its economic resources for the benefit of Germany."

* In September 1939, Seyss-Inquart was appointed chief of civil administration of south Poland. On 12 October 1939, he was made Deputy Governor General of the Government General of Poland. On 18 May 1940, he was appointed Reich Commissioner for occupied Netherlands.

Rosenberg, the International Military Tribunal pointed out in finding him guilty under both counts one and two, "bears a major responsibility for the formulation and execution of occupation policies in the Occupied Eastern Territories."[4]

It is true that in acquitting Speer under count two the International Military Tribunal employed language which might indicate that purely economic activities cannot be considered to constitute the waging of aggressive war. The judgment states:

[1] Ibid., p. 305.
[2] Ibid., p. 283.
[3] Ibid., p. 328.
[4] Ibid., p. 294.

"His activities in charge of German armament production were in aid of the war effort in the same way that other productive enterprises aid in the waging of war; but the Tribunal is not prepared to find that such activities involve engaging in the common plan to wage aggressive war as charged under count one or waging aggressive war as charged under count two."[1]

This statement of the International Military Tribunal cannot, however, be properly considered apart from the immediately preceding statement that "he became the head of the armament industry well after all the wars had been commenced and were under way." In view of the Tribunal's finding in connection with other defendants that economic activities do fall under counts one and two, the acquittal of Speer on a charge of waging aggressive war must reasonably be concluded to have been predicated not on the character of his activities, but upon the time of their commencement. In this connection, it will be noted Seyss-Inquart's economic activities and those of Rosenberg, referred to above, began immediately after the occupation of conquered territories. Nor is there any inconsistency between the position here taken and the judgment of the International Military Tribunal with respect to Doenitz. While he was found guilty solely of "waging aggressive war",* the judgment makes it clear that such activity on the part of Doenitz "began immediately upon the outbreak of war."[2]

* With respect to the failure of the IMT to find that Doenitz was guilty of preparations for aggressive war, the statement of the Tribunal that he "was a line officer performing strictly tactical duties" is particularly significant (IMT, p. 310). There is a clear distinction, of course, between activities in such capacity and of such character, and the activities of the defendants involved in this case.

The acquittal of Sauckel, who was responsible for the exploitation of labor of the conquered territories in aid of the war effort, of waging aggressive war, is explicable in the same way as the acquittal of Speer.[3] Like Speer, Sauckel became active only in 1942 and thus "well after all the wars had been commenced and were under way."[4] This would appear to be the only valid distinction between the activities of Sauckel and those, for example, of Seyss-Inquart. Clearly, if the exploitation of the resources of the occupied countries in the interest of aggressive war con-

[1] Ibid., pp. 330–331.

[2] Ibid., p. 310.

[3] Ibid., pp. 320–322.

[4] Ibid., p. 330.

stitutes the waging of such war then likewise does the exploitation of the labor of the citizens of such countries, if for no other reason than that such labor is one of the economic resources of any country.

Furthermore, in any event, the judgment in the Speer case with respect to productive enterprises relates only to a charge of waging aggressive war. Even if the judgment could be construed to mean that productive enterprise activities commenced at any time after the outbreak of war were permissible, it would not follow, and nothing in the judgment can be construed to indicate, that such activities carried out in preparation for aggressive war are permissible or that such activities conducted after the outbreak of war are permissible if they are a continuation of activities commenced in preparation for aggressive war.*

* It will be noted in connection with this point that both Doenitz and Seyss-Inquart, unlike Speer and Sauckel, had engaged prior to the war in activities at least not unrelated to those in which they were engaged after the outbreak of war.

The activities of the defendants in the instant case in furthering the military power of the Nazis commenced long in advance of the outbreak of aggressive war. Their subsequent activities were just a continuation of their previous illegal conduct. The fact that at some point the preparation for aggressive war turned into its actual waging furnishes no sound basis for their exculpation. Moreover, their activities were not limited to German armament production. They participated also in marshaling the resources of the occupied countries in furtherance of the waging of the aggressive wars.

d. Criminal Intent

It is a fundamental principle of criminal law that an act to be criminal must be done with the necessary criminal intent. Such intent absent, as for example where insanity incapacitates the actor, the act is neutral. So for the commission of crimes against peace it is conceded that it is not enough to show that the activities of the defendants aided in the preparation or waging of Germany's illegal wars, but it must also be shown that the defendants intended that they should.

It is apparent that the International Military Tribunal read a similar requirement into the language of the Charter. This explains, in part, the emphasis it placed on knowledge of Hitler's intentions.* Clearly, if a person, accused of the commission of

* The International Military Tribunal was also concerned with the question of knowledge as bearing on the conspiracy charge. Under the view which it took of the nature of the conspiracy, no one could be guilty under

count one unless it could be demonstrated that he was either present at the important conferences where plans for aggressive war were announced, or was informed about the decisions reached there. However, this specific knowledge of the Nazi aggressive plans was not required to those found guilty under count two. As we have stated earlier, the defendants in the instant case are accused of acts falling under count two of the indictment before the IMT, not under count one.

crimes against peace could be demonstrated to have known that Hitler intended to use Germany's military power for the waging of criminal wars, any participation in furthering such military power could be deemed to have been done with the requisite intent. In effect, the intent of the principal actor became the intent of anyone who with knowledge of it aided in realization of its objective. A vicarious intent resulted.

Because of the approach taken by the prosecution before the International Military Tribunal, and its view that any participation in the affairs of the Nazi Party made one a member of a conspiracy to wage aggressive war, reliance was placed on the program of the Nazi Party to prove the intent of the individual defendants, and no attempt was made to prove any purpose on the part of any defendant independent of the common purpose.

We suggest, however, that criminal intent is susceptible of proof in two distinct and separate ways. First, by proof of knowledge of Hitler's plans; secondly, by proof that the defendants intended, without regard to and without exact knowledge of Hitler's plans, that military power be used for the aggrandizement of Germany or be used in violation of treaties.

1. Definition of Intent to Commit Crimes Against Peace

It is the contention of the prosecution that criminal intent in participating in the preparation and waging of aggressive war is the intention that the military power of a country be employed for the purpose of carrying out a national policy of aggrandizement to take from the peoples of other countries their land, their property, or their personal freedom. Criminal intent in participating in the preparation and waging of wars in violation of international treaties is the intention that the military power of a country be employed in violation of international treaties.

To be guilty of participating in the preparation of either kind of criminal war it is not necessary to show that the defendants believed or intended that employment of Germany's military power would result in actual armed conflict. Whether or not a war actually occurred would depend on the attitude taken by the victim nations to the threat of force. If the military power of Germany was so overwhelming as to make resistance futile, there would be no war, yet the aggrandizement of Germany would as

surely have been accomplished through the employment of military power as though a successful war had been concluded. Thus, the International Military Tribunal, in discussing the "planning of aggression" said:

> "The defendant Raeder testified that neither he, nor von Blomberg, nor von Fritsch, believed that Hitler actually meant war, a conviction which the defendant Raeder claims that he held up to 22 August 1939. The basis of this conviction was his hope that Hitler would obtain a 'political solution' of Germany's problems. But all that this means, when examined, is the belief that Germany's position would be so good and Germany's armed might so overwhelming that the territory desired could be obtained without fighting for it." *

And it is not essential that the defendants have known precisely which country would be the first victim or the exact time that the property rights and personal freedoms of the peoples of any particular country would be under attack. It is sufficient that the defendants intended that Germany's military power would be used for the purpose of carrying out a national policy of aggrandizement to take away from peoples of other countries that which belonged to them.

That knowledge of the specific country to be victimized is not required is clear from the opinion of the International Military Tribunal. Many of the acts recited in the individual judgments as establishing guilt of the commission of crimes against peace took place long before the selection of Germany's victims. Not until May 1939 was Poland the victim of the war of aggression, charged before the International Military Tribunal, chosen; yet every defendant found guilty of participating in the preparation of war is convicted for acts prior to that date. Moreover, in its discussion of Schacht, the International Military Tribunal clearly indicates that it would have considered criminal his activities, which for the most part took place in the early days of the Nazi regime before even the decision to annex Austria by force had been made, if he had known of the Nazi aggressive plans. The only knowledge possible during the period of Schacht's activities was the knowledge that military power would be used for the aggrandizement of Germany. The exact country against which such military power would be employed could not yet be known since it had not yet been selected.

2. The Defendants Had a Direct Intent to Commit Crimes against Peace

In the instant case proof that the purpose or intent of the defendants was to commit crimes against peace is supplied by

* Ibid., p. 191.

their own acts and statements as well as by the evidence establishing their knowledge of Hitler's aims.

It is the contention of the prosecution that the firm of Krupp has cherished aims, since 1919, identical with Hitler's own: overthrow of the Versailles Treaty and establishment of a "Greater Germany"; that it built up the armament of Germany with these aims in mind; that it supported Hitler in 1939 because through him these aims could be realized; and that it thereafter cooperated with and supported his rearmament program to the common end, the aggrandizement of Germany. This intent is shown in the documents preserved by the firm and in its actions.

Immediately upon the conclusion of the First World War the Krupp firm, under the leadership of Gustav Krupp, turned its back on disarmament and vested its future in the rebirth of German militarism. In a statement prepared at the request of the Direktorium for the German military authorities in 1940, that decision is explained as having been taken "out of the conviction that one day Germany must again fight to rise." Stated differently, it was the intention of the Krupp firm to preserve Germany's armament potential for a future war in which she would secure the advantages she had failed to gain in the war just concluded.

In 1933 Gustav Krupp, the leader of the Krupp firm, threw all the weight of his prestige and position behind the Nazi Party, whose program committed it to the realization of the same ends. Thereafter, the Krupp policy fused completely with Nazi aims. Hitler received support in every aspect of his armament program from that firm. This support never diminished even though it became increasingly clear that Germany's military power was being built up for the purpose of taking from other countries the land Germany coveted. When the Nazi policies finally led to war, the Krupp firm played as vital a role in its waging as it had in its preparation. The inference of intent which arises from these acts corroborates the intent stated by the Krupp firm to have guided its actions from the beginning, the intention of preparing Germany for war in the conviction that "one day Germany must again fight to rise."

Hitler did not give purpose to Krupp's activities; he merely made possible achievement of their purpose. The idea of a "Greater Germany" did not originate with Hitler. The most important points of the Nazi Party program were cardinal objectives of Germany long before Hitler became well known. Points one and three—"The unification of all Germans in a Greater Germany" and "Land and territory for the sustenance of our people" are merely a restatement of traditional Pan-Germanism.

Just as the Nazis in 1919 began to lay their plans for the realization of the traditional German aims, so other groups in Germany —including the militarists and the members of the Krupp firm— laid theirs. Hitler's success in attaining and then in consolidating his power over Germany rested on his ability to secure his support of these other groups for the realization of the objectives common to them and to the Nazis. He did not create the objectives; he provided the opportunity for their realization.

The activities of the Krupp firm in preparation for war long antedated its alliance with Hitler. When Gustav Krupp entered into an agreement with the then heads of the German state in 1920 to preserve Germany's rearmament potential for a future struggle, Hitler was the leader of an obscure political movement. It would be clearly absurd to say that the intention with which this, and other activities of the Krupp firm in implementation of that decision, were formed, is to be determined by proof of the presence or absence of knowledge of decisions taken by Hitler 15 years later. The continued activity of the Krupp firm in support of Hitler, after it became evident to all that he stood for aggrandizement of Germany at the expense of its neighbors, reinforces the conclusion that its activities at all times had this as their purpose, but it is not and could not be the only proof of such intention. That rests on the character of the acts themselves and on the subsequent statements in explanation of these acts made by the firm.

3. Knowledge of Nazi Plans

So far we have addressed ourselves to the proof of intent of the defendants as manifested by their statements and conduct; we think that the knowledge which they possessed of Hitler's plans likewise imports to their acts a criminal intent.

As the International Military Tribunal makes clear, participation in the preparation and waging of aggressive war, as charged under count two of the indictment there, does not require that the actor have the same degree of knowledge as a participant under count one in the common plan or "Nazi conspiracy" to wage aggressive war. Something more is required than the general knowledge of the Nazi plans to be obtained from "Mein Kampf" and from the Nazi Party program. However, something less is needed than was available to those who attended Hitler's conferences and were privy to his plans for conquest.

Before undertaking any analysis of precisely where in the field thus demarcated by the International Military Tribunal the line is to be drawn, it might be profitable to discuss briefly exactly what knowledge was available to anyone in Germany of Hitler's

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plans at any time during the long period of preparation for the German wars of aggression.

Hitler's plans to wage aggressive war were first formulated in 1919. The program of the Nazi Party which formed the blueprint for the subsequent aggression against Germany's neighbors was drawn up in 1922. Before these plans could be realized, however, it was necessary that the Nazi Party gain control of Germany. This it did in 1933. Then commenced a long period of preparation for the wars which were to follow. It was necessary to throw off all restrictions on rearmament, to build up a powerful army, navy, and air force and to secure Germany's frontiers by remilitarizing the Rhineland and by building a West Wall before Germany could hope to be successful in its expansion plans. During this long and necessary period of preparation the plans of the Nazis were amorphous. Even Hitler himself did not know when and where he would strike. During this entire critical period it was, therefore, impossible for anyone to have specific information as to the future intentions of the German Government. All that anyone could know was that the program of the Nazi Party called for the aggrandizement of Germany at the expense of other nations and that all necessary measures were being taken to realize this program.

Hitler was building up his armed forces in order to strike but the decision as to when and where, he left for circumstances to decide. In the language of the International Military Tribunal:

> "The truth of the situation was well stated by Paul Otto Schmidt, official interpreter of the German Foreign Office, as follows:
>
> " 'The general objectives of the Nazi leadership were apparent from the start, namely the domination of the European continent, to be achieved first by the incorporation of all German-speaking groups in the Reich, and secondly, by territorial expansion under the slogan "Lebensraum." The execution of these basic objectives, however, seemed to be characterized by improvisation. Each succeeding step was apparently carried out as each new situation arose, but all consistent with the ultimate objectives mentioned above.' " *

In 1937 the program became a little more specific in its objectives. In the fall of that year, Hitler, as revealed to those present at the Hossbach Conference, began to make specific plans to acquire Austria and Czechoslovakia. While Hitler intended to use military measures, if necessary to secure control of these two

* Ibid., pp. 225–226.

countries, it actually proved unnecessary for him to do so. Neither the occupation of Austria nor the subsequent acquisition of control over, first the Sudetenland, and then Bohemia and Moravia was charged as a war of aggression in the indictment before the International Military Tribunal. Consequently, in terms of the wars of aggression charged in that indictment, the only special information which the participants at the Hossbach Conference secured was that Hitler was prepared, if necessary, to resort to force to realize his program.

Sometime in the spring of 1939, Hitler determined to move against Poland. His speech of 22 August 1939 to his commanders in chief made at one of the four secret meetings of the "Nazi conspiracy" reveals his indecision as to his own program until that point. In May 1939 he informed only those people whose cooperation was necessary to the actual invasion of Poland—the heads of the armed forces and their staffs. He did not advise the industrialists, the statesmen, and the diplomats whose cooperation had been necessary for the preparation which preceded his decision.

In short then, until May 1939, no one in Germany could have had knowledge of when and against whom Germany would wage her wars of aggression. Before that date, a few leaders of Germany had been advised as early as November 1937 that Germany was prepared to resort to the sword if necessary to gain her own ends. After that date the military leaders knew of Germany's intention to invade Poland, the rest of the German people learned of it with the invasion of Poland 3 months later. Only for the short space of 3 months can anyone be deemed to have had any special information as to Hitler's plans. These were the men who were Hitler's coconspirators. The period of preparation, however, for Germany's wars of aggression stretch back over a far longer period of time. During this period of time the defendants in this case rendered important services to the Nazi government. Their participation in Nazi preparations took place long before the plans to wage aggressive war were crystallized.

In the opinion of Paul Otto Schmidt, the Party's actions gave ample notice of its aggressive intentions:

> "Whatever doubt a person may have had during the time before the seizure of power with regard to the ultimate aims of the NSDAP or the methods by which it proposed to fulfill them was dispelled by an intelligent observation of the methods of violence this party used originally in electioneering and subsequently in fortifying its dictatorial powers. * * *

"The atmosphere of threats, of intimidation, of lawless acts, the spirit of force and the utter disregard for the basic rules of law which prevailed inside Germany, were good indications of what the Nazis could be expected to do in the international field. This was more clearly indicated by the methods they used in connection with the withdrawal from the League of Nations, the remilitarization of the Rhineland and the repudiation of the Locarno Agreement, rearmament, etc. The final confirmation was easily obtained by observing the progressive trend of the foreign policy after 1938 as illustrated by the annexation of Austria, of the Sudetenland, and finally, and most strikingly, of the rest of Czechoslovakia."[1] (*NI–7765, Pros. Ex. 358.*)

The defendants were in an even better position than Paul Otto Schmidt to understand the implications of the Nazi program. All of Germany knew the program announced in "Mein Kampf," but only an armament firm, such as Krupp, knew how swiftly action had been taken to put that program into practice upon the seizure of power. From their share in the rearmament program they had some idea of the extent of rearmament, and of the tremendous investment in the equipment that would become obsolete if not employed within a reasonable period. They also knew of the preoccupation on all sides with the problems that would arise in the event of war.

Schacht has claimed that "when he discovered that the Nazis were rearming for aggressive purposes he attempted to slow down the speed of rearmament," and the International Military Tribunal found that he, "as early as 1936, began to advocate a limitation of the rearmament program for financial reasons."[2]

During the Krupp fiscal year 1937–1938, which saw the march into Austria on 12 March 1938 and which ended with the invasion of the Sudetenland, Krupp, on the contrary, nearly doubled the armament orders on its books.

Knowledge of the extent of Krupp participation in the rearmament program was necessarily general among the top personnel of the concern. Krupp's production of tanks, guns, submarines, naval turrets, and its part in the fortification of the West Wall, in the Four Year Plan and in all other aspects of the Nazi prepa-

[1] The prosecution introduced in evidence two affidavits of Schmidt, Document 3308–PS, Prosecution Exhibit 357 (cited above as quoted in the judgment of the IMT), and Document NI–7765, Prosecution Exhibit 358 (quoted in part). Schmidt also appeared as a witness for both the prosecution and defense before the Tribunal (mimeographed transcript, 6 February 1948, 2 April 1948, pp. 3317–3388, 5348–5367). None of this evidence is reproduced in this volume, except for the parts quoted in the prosecution brief. In the earlier volumes on the Farben case, United States *vs.* Carl Krauch, et al., (Vols. VII–VIII, Case 6) testimony by Schmidt on the same subject has been included.

[2] Trial of the Major War Criminals, *op. cit., supra,* vol. I, p. 309.

rations for war was so vast that no one in the Krupp Vorstand nor their immediate assistants could have remained unaware of the firm's involvement in preparations for war.*

* So Korschan has stated: "Already in 1936 it was clear to me and to every intelligent person that the armament sector in German production was expanding. Armament works like Krupp naturally benefited from this development.

"In the case of Krupp this became particularly apparent in the fact that already existing workshops for the production of guns, naval armor, armored turrets, were enlarged or new ones set up. The production of cast steel for armored cupolas for the West Wall also clearly showed a constant increase." [*Doc. NIK–9517, Pros. Ex. 359.*]

Because of their personal knowledge of the scale of German rearmament, the defendants could assess more correctly than the ordinary man in Germany the significance of the political and diplomatic maneuvering of the German Government. They knew that it would not hesitate to break treaties to achieve its ends. The Krupp firm itself had shared in Germany's violations of the provisions of the Versailles Treaty, including the armament provisions and the ban on the remilitarization of the Rhineland.

Immediately prior to the actual invasion of Poland, several signs indicated that action against that country was being planned. On 12 May, all exports of armaments to that country were banned; on 22 August 1939, all exports of any character were prohibited with instructions that the contracts should not be cancelled but that excuses should be found for failing to deliver. On 29 July 1939, a meeting was held to put the West Wall into the best possible state of preparation by 25 August.

The defendants' participation in the waging of the war, once it started, was with knowledge of its criminal character. However ill-advised the defendants might have considered the war, they could have had no doubt as to why and by whom it had been precipitated. Moreover, they knew that in its inception Germany had violated international treaties including the Versailles Treaty, the Hague Conventions, and the Kellogg-Briand Pact. They therefore knew the war to be both a war of aggression and a war in violation of international treaties. Their participation in the waging of Germany's criminal war, like their participation in its preparation, was done with full knowledge of the significance of Nazi policy and with the intention of assisting it fully to secure its end—the aggrandizement of Germany.

* * * * * * *

F. Order of the Tribunal Acquitting the Defendants of the Charges of Crimes Against Peace[1]

In this case following the conclusion of the prosecution's case-in-chief the defendants on 12 March 1948 filed a joint motion for a judgment of not guilty on counts one and four of the indictment and upon a full consideration of said motion, the reply of prosecution thereto, the briefs and written arguments, and the evidence, the Tribunal is of the opinion that the competent and relevant evidence fails to show *prima facie* that any of the defendants is guilty of the offense charged in count one or the offense charged in count four of the indictment, and that said motion should be granted.

It is accordingly ordered that said joint motion of the defendants be and is granted and the defendants and each of them is adjudged not guilty under counts one and four of the indictment, but without prejudice to the charges contained in counts two and three.

5 April 1948

[Signed] ANDERSON

Presiding Judge

G. Opinion of the Tribunal Concerning Its Dismissal of the Charges of Crimes against Peace[2]

Opinion re: Finding as to first and fourth counts

On 12 March 1948, the defendants filed a motion entitled, "Motion of the Defense for Acquittal on the Charge of Crimes against the Peace."

In the motion, the defendants moved that the Tribunal "should decide * * * that the defendants are not guilty in this respect," referring to counts one and four of the indictment.

In connection therewith, briefs were filed, the memorandum of the prosecution having been dated 20 March 1948.

During the session of 5 April 1948, the Tribunal, through the president, stated as follows:

[1] On 8 April 1948 the prosecution made a motion for reconsideration of the order, requesting leave to file a supplemental motion later, i.e., after the Tribunal rendered its opinion in connection with the dismissal of counts one and four. On 11 June, the Tribunal rendered its opinion and on 19 June, the prosecution filed a supplemental motion for reconsideration. This motion was denied by the Tribunal on 24 June 1948.

[2] Dated 11 June 1948, Presiding Judge Anderson and Judge Wilkins, in signing this opinion, each gave notice of intention to file individual concurring opinions. These concurring opinions are reproduced immediately following the opinion of the Tribunal.

"Before you proceed with the other witness, Doctor, we desire to dispose of a motion that has been made. On 12 March last, the defendants filed a joint motion for an acquittal on the charges of crimes against the peace. We construe this to be a motion for a judgment of not guilty on counts one and four of the indictment on the ground that the evidence is insufficient as a matter of law to warrant a judgment against them on those counts.

"After a careful consideration of this motion, the prosecution's reply thereto, and the briefs and the evidence, we have come to the conclusion that the competent and relevant evidence in the case fails to show beyond a reasonable doubt that any of the defendants is guilty of the offenses charged in counts one and four. The motion accordingly is granted and for the reasons stated the defendants are acquitted and adjudged not guilty on counts one and four of the indictment. An opinion, stating in more details the reasons of our conclusion, will be filed at a later date."

This opinion has been prepared and is filed accordingly.

In count one of the indictment, all of the defendants are charged with crimes against peace. This count is frequently referred to as the "aggressive war count." In the fourth count, all of the defendants are charged with having participated in the formulation of, and execution of, a common plan and conspiracy to commit, and which is alleged to have involved the commission of crimes against peace. This latter count is often referred to as the "conspiracy count."

As stated in the judgment of the International Military Tribunal, the charge in the indictment "that the defendants planned and waged aggressive wars are charges of the utmost gravity. War is essentially an evil thing. Its consequences are not confined to the belligerent states alone, but affect the whole world.

"To initiate a war of aggression, therefore, is not only an international crime; it is the supreme international crime differing only from other war crimes in that it contains within itself the accumulated evil of the whole."*

It is difficult to think of more serious charges which might be made against any individual than those contained in the two counts in question. Realizing this and the attending responsibility upon us, we have carefully weighed the evidence offered in view of what was said in the judgment of the International Military Tribunal.

Article II of the Control Council Law No. 10 provides in part as follows:

* Trial of the Major War Criminals, *op. cit., supra*, vol. I, p. 186.

"1. Each of the following acts is recognized as a crime:

"*a. Crimes against Peace.* Initiation of invasion of other countries and wars of aggression in violation of international laws and treaties, including but * * * a war of aggression, or a war of violation of international treaties, agreements, or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing.

* * * * * * *

"2. Any person, without regard to nationality or the capacity in which he acted, is deemed to have committed a crime as defined in paragraph 1 of this Article, if he was (*a*) a principal or (*b*) was an accessory to the commission of any such crime or ordered or abetted the same or (*c*) took a consenting part therein or (*d*) was connected with plans or enterprises involving its commission or (*e*) was a member of any organization or group connected with the commission of any such crime or (*f*) with reference to paragraph 1(*a*), if he held a high political, civil, or military (including General Staff) position in Germany or in one of its Allies, cobelligerents, or satellites, or held high position in the financial, industrial, or economic life of any such country."

The following articles appear in "Military Government, Germany, Ordinance No. 7, Organization and Powers of Certain Military Tribunals":

"Article IX

"The Tribunals shall not require proof of facts of common knowledge but shall take judicial notice thereof. They shall also take judicial notice of official governmental documents and reports of any of the United Nations, including the acts and documents of the committees set up in the various Allied countries for the investigation of war crimes, and the records and findings of military or other tribunals of any of the United Nations.

"Article X

"The determinations of the International Military Tribunal in the judgments in Case No. 1 that invasion, aggressive acts, aggressive wars, crimes, atrocities or inhumane acts were planned or occurred, shall be binding on the tribunals established hereunder and shall not be questioned except insofar as the participation therein or knowledge thereof by any particular person may be concerned. Statements of the International Military Tribunal in the judgment in Case No. 1 constitute proof of the facts stated, in the absence of substantial new evidence to the contrary."

In the judgment of the International Military Tribunal, the conspiracy and aggressive war counts were discussed together, and the guilt or innocence of each accused upon the counts upon which he was indicted were also covered.

A detailed review in this opinion of all of the evidence offered by the prosecution upon these two counts is not deemed essential. Assuming that all of the evidence so presented is considered as creditable, it was upon 5 April 1948 and is now, our considered opinion that the requirements for a finding of the defendants guilty upon these two counts have not been met. We do not hold that industrialists as such, could not under any circumstances be found guilty upon such charges. Herein we state what we construe to be the necessary elements of proof for conviction upon these two counts, and have concluded that evidence of the same has not been submitted. This conclusion having been reached on 5 April 1948, it then appeared to us that it was our duty to state it immediately, and not require the defendants to offer further evidence upon these two counts. The obvious result of not having taken this course, would have been to put the defendants, who otherwise would not know the views of the Tribunal, in the position of exposing themselves to a situation which we do not deem consistent with the rights of every defendant, namely, the right to have a fair trial. One of the requirements is that the prosecution shall sustain the burden of proving each defendant guilty beyond a reasonable doubt. The Tribunal having determined that the prosecution had failed to prove each defendant guilty beyond a reasonable doubt upon the two counts in question entertained the thought that the only possible effect of having the defendants present evidence upon these two counts would be that in doing so proof of facts required for conviction might then possibly be produced to the advantage of the prosecution. It is our opinion that such a course would not be in keeping with our ideas of justice. It was because of this that we announced our conclusion in the manner in which we did in open court on 5 April 1948.

Preceding the allegations contained in count one in the indictment, the following appears:

> "The persons hereinafter named were all officials of Fried. Krupp A.G., Essen (1903–1943) and its successor, Fried. Krupp, Essen. The original enterprise of Fried. Krupp was founded in 1812. It was transformed into a corporation (A.G.) in 1903, which was succeeded in December 1943 by an unincorporated firm, Fried. Krupp, Essen, in accordance with a special Hitler decree. These firms constituted successively the family enterprise of the Krupp family and, together with their sub-

sidiaries and other interests, are hereinafter referred to as 'Krupp'. The managing body of the Fried. Krupp A.G. is hereinafter referred to as the 'Vorstand', and that of the succeeding unincorporated firm, as the 'Direktorium'.

"The persons accused as guilty of these crimes and accordingly named as defendants in this case are:

"ALFRIED FELIX ALWYN KRUPP VON BOHLEN UND HALBACH, sole owner, proprietor, active and directing head of Fried. Krupp, Essen, and Fuehrer der Betriebe (leader of the plants), from December 1943; successor to Gustav and Bertha Krupp von Bohlen und Halbach, directing head and owner respectively of Fried. Krupp A.G.; previously active head, chairman of the Vorstand, and head of the war material and raw materials departments of Fried. Krupp, A.G., Essen; Wehrwirtschaftsfuehrer (military economy leader); deputy chairman of the Reichsvereinigung Eisen (Reich Association Iron) and member of the Praesidium of the Reichsvereinigung Kohle (Reich Association Coal) (hereinafter referred to as the 'RVE' and 'RVK'); member of the Verwaltungsrat of the Berg- und Huettenwerksgesellschaft Ost G.m.b.H. (hereinafter referred to as the 'BHO'); member of the Armament Commission (Ruestungsrat) in the office of the Reich-Minister for Armament and War Production (Reichsminister fuer Ruestung und Kriegsproduktion); member of the Nationalsozialistische Deutsche Arbeiterpartei (Nazi Party, hereinafter referred to as the 'NSDAP'); sponsoring member of Die Schutzstaffeln der Nationalsozialistischen Deutschen Arbeiterpartei (hereinafter referred to as the 'SS') Standartenfuehrer (colonel) of the Nationalsozialistisches Flieger Korps (National Socialist Flying Corps, hereinafter referred to as the 'NSFK').

"EWALD OSKAR LUDWIG LOESER, member of the Vorstand and head of the administrative and finance departments of Fried. Krupp A.G., until March 1943; Wehrwirtschaftsfuehrer; Krupp representative in the Kleiner Kreis (Small Circle, a group which exercised great influence over the coal, iron, and steel industries) Reich trustee for Philips Radio, Eindhoven, Netherlands, in 1944.

"EDUARD HOUDREMONT, member of Krupp Direktorium and deputy member of the Vorstand, head of the metallurgical, steel, and machine departments; plant leader (Fuehrer des Betriebes) Gusstahlfabrik, Essen; Wehrwirtschaftsfuehrer; special commissioner for metal substitutes (Sonderbeauftragter fuer Metallumstellung) in Reich Ministry for Armament and War Production and the Ministry of Economics (Reichswirtschafts-

ministerium); advisor to the administrators of the Four Year Plan; member of the NSDAP.

"ERICH MUELLER, member of Krupp Vorstand and Direktorium, head of the artillery designing and machine construction departments and coordinator of artillery construction; Wehrwirtschaftsfuehrer; armaments advisor to Hitler; advisor to the War Ministry; head of Armament Committee (Waffenausschuss) in the office of Reich Minister for Arms and Munitions; chairman of the Weapons Development Committee (Entwicklungskommission der Waffen) of the Ministry for Armament and War Production; member of the NSDAP.

"FRIEDRICH WILHELM JANSSEN, member of Krupp Direktorium and deputy member of the Vorstand; successor to Ewald Loeser as head of the administrative and finance departments; head of the Berlin office, 1937–1943; Wehrwirtschaftsfuehrer; member of the NSDAP; sponsoring member of the SS.

"KARL HEINRICH PFIRSCH, deputy member of Krupp Direktorium and Vorstand, and head of the war material and machine sales departments; head of the Berlin office, 1943–1945; Wehrwirtschaftsfuehrer; member of the NSDAP.

"MAX OTTO IHN, deputy member of Krupp Direktorium and Vorstand, deputy to Ewald Loeser and Friedrich Janssen, concerned particularly with personnel and intelligence; deputy plant leader, Gusstahlfabrik, Essen; member of the NSDAP.

"KARL ADOLF FERDINAND EBERHARDT, deputy member of Krupp Direktorium and Vorstand, and successor to Karl Pfirsch as head of the war material and machine sales departments; member of the NSDAP.

"HEINRICH LEO KORSCHAN, deputy member of Krupp Vorstand; head of the department of steel plants and deputy head of the metallurgical department; trustee and administrator of Krupp war time enterprises in eastern and southeastern Europe; managing director of Krupp Bertha Werk, Breslau; member of the NSDAP.

"FRIEDRICH VON BUELOW, an official of Krupp, concerned particularly with confidential, intelligence, and public relations matters; head of the Berlin office, 1932–1936; military and political chief of counterintelligence (Hauptabwehrbeauftragter) at Krupp, Essen, and direct representative of Krupp with Nazi officials, the Gestapo, and SS; chief of the plant police (Werkschutz), Gusstahlfabrik, Essen.

"WERNER WILHELM HEINRICH LEHMANN, an official of Krupp, deputy to Max Ihn and in charge of Arbeitseinsatz 'A' (labor procurement), member of the NSDAP.

"HANS ALBERT GUSTAV KUPKE, an official of Krupp, head of experimental firing ranges at Essen; head of the foreign workers camps (Oberlagerfuehrer); previously an official of the Army Ordnance Office (Heereswaffenamt); member of the NSDAP."

In paragraph 1 of count one of the indictment, it is alleged that all of the defendants, "with divers other persons, including Gustav Krupp von Bohlen und Halbach, Paul Goerens, and Fritz Mueller, during a period of years preceding 8 May 1945, committed crimes against peace as defined in Article II of Control Council Law No. 10, in that they participated in the initiation of invasions of other countries and wars of aggression in violation of international laws and treaties, including but not limited to planning, preparation, initiation, and waging wars of aggression, and wars in violation of international treaties, agreements, and assurances."

In paragraph 2 of count one, it is stated that the defendants "held high positions in the political, financial, industrial, and economic life of Germany and committed crimes against peace in that they were principals in, accessories to, ordered, abetted, took a consenting part in, were connected with plans and enterprises involving, and were members of organizations and groups, including Krupp, connected with the commission of crimes against peace."

In paragraph 3 of the first count, it is said that the "invasions and wars referred to and the dates of their initiation were as follows: Austria, 12 March 1938; Czechoslovakia, 1 October 1938 and 15 March 1939; Poland, 1 September 1939; Denmark and Norway, 9 April 1940; Belgium, the Netherlands, and Luxembourg, 10 May 1940; Yugoslavia and Greece, 6 April 1941; the U.S.S.R., 22 June 1941; and the United States of America, 11 December 1941."

It is now clear that the wars, which the defendants are alleged to have participated in the initiation of, were wars of aggression. However, can it be said that the defendants in doing whatever they did do prior to 1 September 1939 did so, knowing that they were participating in, taking a consenting part in, aiding, and abetting the invasions and wars set out in paragraph 3?

The International Military Tribunal required proof that each defendant had actual knowledge of the plans for at least one of the invasions or wars of aggression, in order to find him guilty. It was stated that "evidence from captured documents has revealed that Hitler held four secret meetings to which the Tri-

bunal proposes to make special reference because of the light they shed upon the question of the common plan and aggressive war."[1]

Continuing on, it was stated, "These meetings took place on 5 November 1937, 23 May 1939, 22 August 1939, and 23 November 1939."

Then the Tribunal said, "At these meetings important declarations were made by Hitler as to his purposes, which are quite unmistakable in their terms."

In finding Hess guilty on the aggressive war count and on the conspiracy count, the International Military Tribunal clearly indicated that in its opinion a defendant could be found guilty even if he had not attended one of the four meetings referred to above. Likewise, we do not hold that a defendant cannot be found guilty unless he attended one of the meetings.

Schacht was indicted under counts one and two, conspiracy and waging aggressive war, and he was found not guilty by the International Military Tribunal:

> "But rearmament of itself is not criminal under the charter. To be a crime against peace under Article 6 of the Charter it must be shown that Schacht carried out this rearmament as part of the Nazi plans to wage aggressive wars."[2]

As it was necessary in the case of Schacht it is necessary with respect to these defendants that it be shown that they carried out rearmament "as part of the Nazi plans to wage aggressive wars."

Speer was indicted on all four counts. He joined the Nazi Party in 1932. In 1934 he was made Hitler's architect and became a close personal confidant. Shortly thereafter he was made a department head in the German Labor Front and the official in charge of capital construction on the staff of the deputy to the Fuehrer, positions which he held through 1941. On 15 February 1942, after the death of Fritz Todt, Speer was appointed chief of the Organization Todt, and Reich Minister for Armaments and Munitions (after 2 September 1943 for armaments and war production). The positions were supplemented by his appointments in March and April 1942 as General Plenipotentiary for Armaments and as a member of the Central Planning Board, both within the 4-year plan. He was a member of the Reichstag from 1941 until the end of the war.

The Tribunal stated that it was of the opinion that "Speer's activities do not amount to initiating, planning, or preparing wars of aggression, or of conspiring to that end. He became the head of the armament industry well after all of the wars had been

[1] Ibid., p. 188.
[2] Ibid., p. 309.

commenced and were under way. His activities in charge of German armament production were in aid of the war effort in the same way that other productive enterprises aid in the waging of war; but the Tribunal is not prepared to find that such activities involve engaging in the common plan to wage aggressive war as charged under count one or waging aggressive war as charged under count two."[1]

If Speer's activities were found not to constitute "waging aggressive war" we most certainly cannot find these defendants guilty of it.

In the Charter of the International Military Tribunal, under section II, Jurisdiction and General Principles, we find the following:[2]

"Article 6. The Tribunal established by the Agreement referred to in Article 1 hereof for the trial and punishment of the major war criminals of the European Axis countries shall have the power to try and punish persons who, acting in the interests of the European Axis countries, whether as individuals or as members of organizations, committed any of the following crimes.

"The following acts, or any of them are crimes coming within the jurisdiction of the Tribunal for which there shall be individual responsibility:

"(*a*) CRIMES AGAINST PEACE: namely, planning, preparation, initiation or waging of a war of aggression, or a war in violation of international treaties, agreements, or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing;

"(*b*) WAR CRIMES: namely, violations of the laws or customs of war. Such violations shall include, but not be limited to, murder, ill-treatment or deportation to slave labor or for any other purpose of civilian population of or in occupied territory, murder or ill-treatment of prisoners of war or persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns or villages, or devastation not justified by military necessity;

"(*c*) CRIMES AGAINST HUMANITY: namely, murder, extermination, enslavement, deportation, and other inhumane acts committed against any civilian population, before or during the war, or persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tri-

[1] Ibid., pp. 330–331.

[2] Ibid., p. 11.

bunal, whether or not in violation of the domestic law of the country where perpetrated.

"Leaders, organizers, instigators and accomplices participating in the formulation or execution of a common plan or conspiracy to commit any of the foregoing crimes are responsible for all acts performed by any persons in execution of such plans."

The prosecution contends that to be guilty of participation in the preparation and waging of aggressive war, under count two of the indictment in the case before the International Military Tribunal, it was not necessary that the individual be one of the small circle of conspirators around Hitler, not be informed of the decisions taken in that circle. Participation in the preparation and waging of aggressive war, it is claimed, was obviously considered a crime different from participation in the common plan to wage aggressive war.

The prosecution claims that the conclusion follows that participation in the preparation of or waging of aggressive war is a crime different from the crime of participation in the common plan conceived by Hitler to wage aggressive war; that is, to be guilty of such participation, it is not necessary to have attended the conferences at which aggressive war was planned, or to be advised as to what took place at them, and that such participation may take place even in advance of the crystalization of a conspiracy to wage aggressive war.

The prosecution further says that Control Council Law No. 10 makes not only the preparing of or waging of aggressive war criminal, but also makes criminal participation in a common plan or conspiracy, having as its objective, such preparing or waging of aggressive war. It is claimed that it follows that participation in a plan or conspiracy for the accomplishment of acts of the character adjudged by the International Military Tribunal to constitute preparing or waging aggressive war under count two of the indictment filed before that Tribunal, is criminal, even though neither the conspiracy nor the acts form part of the "Nazi conspiracy" charged under count one. It is also contended that both law and logic support this conclusion and that if an individual can be guilty of preparing for, or waging aggressive war, even though he did not participate in the conspiracy around Hitler, there would appear to be no reason why a group of individuals should not be held responsible for collectively conspiring toward the same end. It is claimed that this is what the defendants did in this case. The claim is made that acting together, but not as part of the "Nazi conspiracy", they took action that had as

its object, first to prepare, and then to wage aggressive war, and that everything that these defendants did they did in concert with one another, and that the end achieved, either legal or illegal, was accomplished through their collective action.

We cannot conclude that there were two or more separate conspiracies to accomplish the same end, one the "Nazi conspiracy" and the other the "Krupp conspiracy." It must be remembered at all times that in count one, it is alleged that the defendants participated in crimes against peace, the initiation of invasions of other countries and wars of aggression and, in count four that they participated in a conspiracy to commit the crimes against peace, and that the invasions and wars referred to, and the dates of their initiation were as follows: Austria, 12 March 1938; Czechoslovakia, 1 October 1938 and 15 March 1939; Poland, 1 September 1939; Denmark and Norway, 9 April 1940; Belgium, the Netherlands, and Luxembourg, 10 May 1940; Yugoslavia and Greece, 6 April 1941; the U.S.S.R., 22 June 1941; and the United States of America, 11 December 1941.

As the invasions and aggressive wars listed above are those set out in paragraph three of the first count of the indictment, the prosecution has the burden of proving that these specific invasions and wars of aggression were the ones in connection with which the defendants either conspired, as alleged in the fourth count of the indictment, or in which they participated, as asserted in the first count of the indictment. All of the allegations of count one are "incorporated in" count four. Consequently, the above allegation as to invasions and wars of aggression and their dates is part of count four.

For the above reasons we concluded that the prosecution failed to prove any of the defendants guilty by the requisite degree of proof on either count one or count four and that accordingly none of the defendants is guilty on counts one and four.

Done at Nuernberg, Germany
11 June, 1948

EDWARD J. DALY, Judge
Military Tribunal III

I concur in the foregoing opinion, but my approach to some of the questions involved in counts one and four of the indictment being somewhat different, I will file a concurring opinion setting forth my individual views.*

HU C. ANDERSON
Presiding Judge
Military Tribunal III

* Presiding Judge Anderson rendered his concurring opinion on 7 July 1948. It is reproduced immediately following this opinion.

I concur in everything that has been said in the above opinion, but reserve the right to file a special concurring opinion at the time the final judgment is filed.[1]

WILLIAM J. WILKINS, Judge
Military Tribunal III

H. Concurring Opinion of Presiding Judge Anderson on the Dismissal of the Charges of Aggressive War[2]

After the prosecution had rested its case-in-chief, the defendants, on 12 March 1948, filed a joint motion for a judgment of not guilty on counts one and four of the indictment. Upon a full consideration of said motion, the reply of the prosecution thereto, the briefs, and the evidence, the motion was sustained on 5 April 1948, and on the same day the Tribunal entered a formal order to that effect. The material parts of this order are in the following language: "The Tribunal is of the opinion that the competent and relevant evidence fails to show *prima facie* that any of the defendants is guilty of the offense charged in count one or the offense charged in count four of the indictment and that said motion should be granted."

I fully concur in this action of the Tribunal and the reasons therefor assigned in the opinion heretofore filed, but having an additional approach to some of the questions involved, I deem it not inappropriate to file this concurring opinion giving my individual views. In the interest of continuity some repetition of the contents of the major opinion will be unavoidable.

In the outset I may say once and for all, and here I may speak for all of the members of the Tribunal, that no one more fully agrees with the view of the civilized world that aggressive war is the supreme crime, and no penalty is too severe for those who are responsible for it. But, even so, I have no doubt that an objective consideration, confined as it should be to the law and to the facts as developed by competent and relevant evidence in this particular case, required the decision made.

The twelve defendants were noncombatants engaged as private citizens in the conduct of a private enterprise producing, among other things, armament for profit. In two of the four counts in the indictment they are charged with crimes against the peace.

Both counts are based on the provisions of Allied Control Council Law No. 10, defining crimes against the peace. This law

[1] Judge Wilkins rendered his concurring opinion on 31 July 1948, the day of final judgment. This opinion is reproduced immediately following the concurring opinion of Presiding Judge Anderson.

[2] Dated 7 July 1948.

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is an enactment of the Allied Control Council through which the four victorious nations have jointly exercised supreme legislative authority in Germany since the unconditional surrender of that nation. The provision of the law upon which the counts are based is as follows:

"*Crimes against Peace.* Initiation of invasions of other countries and wars of aggression in violation of international laws and treaties, including but not limited to planning, preparation, initiation or waging a war of aggression, or a war of violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing."

After alleging that the defendants were all officials of Fried. Krupp, A.G. (1903–1943), and its successor, Fried. Krupp, Essen, count one of the indictment charges that all of the defendants, with divers other persons, including Gustav Krupp von Bohlen und Halbach, Paul Goerens, and Fritz Mueller, during a period of years preceding 8 May 1945, "committed crimes against peace as defined in Article II of Control Council Law No. 10, in that they participated in the initiation of invasions of other countries and wars of aggression in violation of international laws and treaties, including but not limited to planning, preparation, initiation, and waging wars of aggression and wars in violation of international treaties, agreements, and assurances."

Paragraph 3 of count one is in the following language:

"The invasions and wars referred to and the dates of their initiation were as follows: Austria, 12 March 1938; Czechoslovakia, 1 October 1938 and 15 March 1939; Poland, 1 September 1939; Denmark and Norway, 9 April 1940; Belgium, the Netherlands, and Luxembourg, 10 May 1940; Yugoslavia and Greece, 6 April 1941; the U.S.S.R., 22 June 1941; and the United States of America, 11 December 1941."

In some 25 paragraphs following there is a detailed description of the origin, background, and development of the activities of the Krupp enterprise relied upon to support the criminal charge against the defendants.

Count four is in the following language:

> "All of the defendants, with divers other persons, during a period of years preceding 8 May 1945, participated as leaders, organizers, instigators, and accomplices in the formulation and execution of a common plan and conspiracy to commit, and which involved the commission of, crimes against peace (including the acts constituting war crimes and crimes against humanity, which were committed as an integral part of such

crimes against peace) as defined in Control Council Law No. 10, and are individually responsible for their own acts and for all acts committed by any persons in the execution of such common plan or conspiracy.

"The acts and conduct of the defendants set forth in counts one, two and three of this indictment formed a part of said common plan or conspiracy and all the allegations made in said counts are incorporated in this count."

The prosecution concedes that the Tribunal has no jurisdiction of a conspiracy to commit war crimes and crimes against humanity as substantive offenses and, hence, so much of count four as appears to charge those offenses may be disregarded.

For many years prior to May 1945, the Krupp concern was one of Germany's greatest vertical combinations in the field of heavy industry. From 1904 to December 1943, Fried. Krupp, A.G., a private limited liability company, was at the apex of the combination. Bertha Krupp owned all but five shares of Fried. Krupp, A.G. These were distributed by way of compliance with legal requirements and were kept under strict control so that, to all intents and purposes, Bertha Krupp was the owner of the entire business.

In December 1943, the corporation was dissolved and pursuant to the provisions of a governmental decree, known as "Lex Krupp", Alfried Krupp von Bohlen und Halbach, the son of Bertha Krupp and her husband, Gustav Krupp von Bohlen und Halbach, became the sole owner and proprietor of the whole business, presumably as a gift from his mother. Thereafter, the business was known simply as Fried. Krupp.

The Fried. Krupp, A.G., and in turn the private firm, owned and controlled directly and through subsidiary holding companies a number of coal, iron, and steel enterprises, and armament plants, including a shipbuilding yard. Mines, collieries, transportation companies, development and research companies, and miscellaneous enterprises were carried on by subsidiary concerns.

From the evidence so far introduced the operation of Fried. Krupp, A.G. as well as of the entire Krupp concern seems to have been vested by the general corporation laws in the Vorstand of Fried. Krupp, A.G. The exercise of its authority, however, was subject to review and control by the Aufsichtsrat.

Prior to the dissolution of the corporation in December 1943, its affairs in their many ramifications were dominated and controlled by Gustav Krupp as the representative of his wife, Bertha Krupp. Thus, as said in the prosecution's brief, "Gustav Krupp, because of his control over the stock of Fried. Krupp, A.G., and his position as chairman of the Aufsichtsrat, had absolute power

over the control of the company at any given time. He was, so to speak, a two-legged stock holders' meeting."

Gustav Krupp was a defendant in the indictment in the case of Goering, et al., tried before the International Military Tribunal, hereinafter referred to as IMT. However, he was found mentally and physically incapable of standing trial and the proceedings in that case as to him were accordingly stayed. He has never been tried. Following the finding as to Gustav Krupp there was a motion by the prosecution to amend the indictment before the IMT by naming his son, Alfried Krupp, as a defendant therein. This motion was denied. Thereafter, Alfried Krupp was indicted as one of the twelve defendants in the present case.

The prosecution in this case made a motion to amend the indictment so as to eliminate the defendants Kupke, Lehmann, and von Buelow from counts one and four. Therefore, no further reference to them is necessary.

The defendant Alfried Krupp entered the employ of the firm in 1925 as a part-time engineering apprentice. About 1936 he became a deputy member of the Vorstand, and in 1938 a full member. In December 1943, as already said, he became the sole owner and proprietor of the enterprise.

The remaining eight defendants entered the employ of the Krupp firm at different times during the period from 1902–1937. Their duties and responsibilities varied materially, but for present purposes these differences may be disregarded and for convenience the case considered as if they all stood in the same plight; namely, as the executives, some major and some minor, who operated the enterprise, subject always to the direction and control of Gustav Krupp von Bohlen prior to December 1943, who, as the prosecution says, was in effect "a two-legged stockholders' meeting."

For four generations the name of Krupp has been identified in the public mind as a producer of war materials. In this field of activity it is perhaps not too much to say that the enterprise was one of the most valuable single contributors to the German war effort in all of the conflicts in which that nation has been engaged during that period. Its activities covered a wide scope. Before and during the last war it was the principle German maker of large caliber artillery, armor plate, tanks, and other high quality armament, the largest private builder of U-boats and warships, and the second largest producer of iron and coal in Germany. In a figurative sense it is not inapt to describe the Krupp enterprise, as the prosecution does, as an industrial empire.

There are certain matters of general application which must be stated in the outset of this investigation. They must be borne in mind throughout the discussion. The first is that this Tribunal

was created to administer the law. It is not a manifestation of the political power of the victorious belligerents which is quite a different thing. The second is that the fact that the defendants are alien enemies is to be resolutely kept out of mind. The third is that considerations of policy are not to influence a disposition of the questions presented. Of these there are but two; (*a*) what was the law at the time in question, and (*b*) does the evidence show *prima facie* that the defendants or any of them violated it. The fourth is that the defendants throughout are presumed to be innocent and before they can be put to their defense, the prosecution must make out a *prima facie* case of guilt by competent and relevant evidence. It is true that the procedural ordinance of the Military Government for Germany (U.S.) provides that "they (the Tribunals) shall adopt and apply to the greatest possible extent * * * nontechnical procedure." But neither the members of this Tribunal nor the people of the nation prosecuting this case regard the presumption of innocence as nothing more than a technical rule of procedure. Nor do they, or we, think it a mere rhetorical abstraction to which lip service will suffice. Upon the contrary, in addition to its procedural consequences, it is a substantive right which stands as a witness for every defendant from the beginning to the end of his trial. The fifth is that Gustav Krupp von Bohlen is not on trial in this case. He is alleged to have been a co-conspirator with the defendants but his declarations, acts, and conduct are not binding on the defendants unless and until the existence of the criminal conspiracy charged in the indictment has been *prima facie* proved *aliunde* and then only insofar as they can be regarded as having been in furtherance of the alleged criminal purpose. The sixth is that it is a fundamental principle of criminal justice that criminal statutes are to be interpreted restrictively; that criminal responsibility is an individual matter; that criminal guilt must be personal. The seventh is that the application of *ex post facto* laws in criminal cases constitutes a denial of justice under international law.* Hence, if it be conceded that Control Council Law No. 10 is binding on the Tribunal, it nevertheless must be construed and applied to the facts in a way which will not conflict with this view.

This is also the position of the prosecution, for General Telford Taylor, Chief of Counsel for War Crimes, in his recent report to the Secretary of the Army on Nuernberg Trials, among other things, said this:

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* Quincy Wright: "The Law of the Nurnberg Trial," American Journal of International Law, January 1947, vol. 41, p. 53.

"No one has been indicted before the Nuernberg Military Tribunals unless, in my judgment, there appeared to be substantial evidence of criminal conduct under accepted principles of international penal law."

The trial before the IMT involved the construction and application of the London Charter in respect, among other things, of crimes against the peace as therein defined, in their relation to existing international law.

The indictment in the case of Goering, et al., was based on the London Charter, whereas, as said, the indictment in the present case is based on the Control Council Law No. 10. The London Charter is, however, made an integral part of the latter in express terms. Both define crimes against the peace but in somewhat different language.

The language of the Charter is: "Crimes against the Peace: Namely, planning, preparation, initiation or waging of the war of aggression, or a war in violation of international treaties, agreements or assurances, or participation in a common plan or conspiracy for the accomplishment of any of the foregoing." The pertinent provision of Control Council Law No. 10 is set out above.

Since it will be necessary to refer repeatedly to the judgment of the IMT, it is well enough to point out that in the indictment before that Tribunal the common plan or conspiracy was charged in count one, and the "initiation, planning, preparation and waging" of certain specified wars was charged in count two. Hence, count one of the present indictment corresponds to count two of the other and count four to count one.

It is quite obvious from the brief that the prosecution relies mainly upon the conspiracy count. The reason is not difficult to find and quite understandable. It is, that only upon this theory can the particular defendants be charged with the acts and declarations of Gustav Krupp. The prosecution was allowed wide latitude in its effort to establish a *prima facie* case of conspiracy as the basis for the use against the defendants of Gustav Krupp's statements and activities. A great mass of evidence was provisionally admitted upon the assumption that a *prima facie* case would be made. When this failed, such evidence was incompetent as against the defendants.

The emphasis upon the conspiracy charge makes it appropriate to consider that count first. Control Council Law No. 10 does not define conspiracy, nor does the London Charter. But in construing the latter document, the IMT did do so in the following paragraph:

"The prosecution says, in effect, that any significant partici-

pation in the affairs of the Nazi Party or government is evidence of a participation in a conspiracy that is in itself criminal. Conspiracy is not defined in the Charter. But in the opinion of the Tribunal the conspiracy must be clearly outlined in its criminal purpose. It must not be too far removed from the time of decision and of action. The planning, to be criminal, must not rest merely on the declarations of a party program, such as are found in the 25 points of the Nazi Party, announced in 1920, or the political affirmations expressed in 'Mein Kampf' in later years. The Tribunal must examine whether a concrete plan to wage war existed, and determine the participants in that concrete plan."

Applying this rule, the IMT held proof of actual knowledge of the concrete plans of the Nazi government to wage aggressive war to be essential to a conviction under the conspiracy count.

Upon the other hand the prosecution bases its case under both counts upon the asserted legal propositions—

"Crimes against peace comprehend at least that any person, without regard to nationality or the capacity in which he acts, commits a crime against peace if he knowingly participates in developing, furthering, or executing a national policy of aggrandizement on the part of a country to use force in order (*a*) to take from peoples of other countries their land, their property, or their personal freedoms, or (*b*) to violate international treaties, agreements or assurances; or if he knowingly participates in a common plan or conspiracy to accomplish the foregoing."

As a corollary it is insisted that the requisite criminal intent can be shown by proof "that the defendants intended, without regard to and without exact knowledge of Hitler's plans, that military power be used for the aggrandizement of Germany or be used in violation of treaties."

In a truly outstanding brief there is a valiant effort on the part of the prosecution to justify the departure from the definition of conspiracy given by the IMT, for it was doubtlessly realized, and properly, that to do so was vital to the case against the defendants. This is the crux of the case. The contention is in substance, that whereas in the indictment before the IMT the conspiracy charged was that originated by Hitler and his intimates, for convenience called the "Nazi conspiracy", the conspiracy here is a *separate and independent* one originated in 1919 by Gustav Krupp and the then officials of the Krupp concern, long before the Nazi seizure of power.

In an effort to make the statement of its theory conform in part at least to the language of Control Council Law No. 10, the alleged "Krupp conspiracy" is tersely described in the brief in general terms as follows: "Acting together, but not as a part of the 'Nazi conspiracy', they (the defendants) took action that had as its object first, to prepare and then to wage aggressive war." As will presently appear, this considered alone does not accurately represent what I conceive to be the theory of the prosecution and although manifestly not intended to be so, is somewhat misleading and confusing.

The idea that independently of governmental authority the owner or controller of a private enterprise, together with his employees, in this day and time could formulate and execute a criminal combination to commit crimes against the peace as defined in Control Council Law No. 10 is so unique and far reaching in its implications that the mere statement of it at once gives rise to the question of whether the prosecution's contention has not been misunderstood. The advisability of removing any doubts on this score is the only justification for the following quotations from the brief and opening statements of the prosecution. In the latter it is said:

> "We are not dealing in this case with men who rose to power by riding the crest of the Nazi wave. That most of the defendants were members of the Nazi Party is a significant fact, but it is not part of the basic framework of this case.
>
> "Nazism was, after all, only the temporary political manifestation of certain ideas and attitudes which long antedated nazism, and which will not perish nearly so easily. In this case, we are at grips with something much older than nazism; something which fused with Nazi ideas to produce the Third Reich, but which has its own independent and pernicious vitality."

This theory is elaborated in the brief in the following language:

> "From the First World War, the Krupp firm has conspired against the peace of Europe. Like the Nazi Party, it has nurtured at all times the idea that Germany would rise to power through its military might. In 1933, it entered into an alliance with that Party for the realization of their common objectives. Its activities, both before and after this alliance, contributed materially to Germany's ability to wage its wars of aggression. As new people came into positions of control in Krupp, they continued the conspiracy which starting in 1919 lasted at least until the defeat of Germany. * * *
>
> "The judgment of the International Military Tribunal does not preclude a finding of guilty under count four of this indict-

ment. The conspiracy charged here is not the 'Nazi conspiracy' charged in count one of the indictment filed before that Tribunal, with which its judgment deals, but is a conspiracy to do the acts of the character charged under count two of that indictment. That is, both counts one and four of the indictment filed before this Court charge acts of the character subsumed under count two of the indictment filed before the IMT. * * *

"*The conclusion follows from all this (preceding discussion) that participation in the preparation or waging of aggressive war is a crime different from the crime of participation in the common plan conceived by Hitler to wage aggressive war;* that to be guilty of such participation it is not necessary to attend the conferences at which aggressive war was planned, or to be advised as to what took place at them; *and that such participation may take place even in advance of the crystallization of a conspiracy to wage aggressive war.* [Emphasis supplied.]

"Since Control Council Law No. 10 makes not only the *preparing or waging* of aggressive war criminal, but also participation in a common plan or conspiracy *having as its objective such preparing or waging,* it follows that participation in a plan or conspiracy for the accomplishment of acts of the character adjudged by the International Military Tribunal to constitute *preparing or waging* under count two of the indictment filed before that Tribunal is criminal even though neither the conspiracy nor the acts form part of the 'Nazi conspiracy' charged under count one. * * * [Emphasis supplied.]

"The activities of these defendants were economic and political in character. That is, they contributed to the preparation and waging of war not by direct military action but by *supporting a policy of national aggrandizement.* Primarily, these defendants assisted in marshaling the resources first of Germany and then of the conquered countries to increase the military power of Germany." [Emphasis supplied.]

Having in mind the definition of conspiracy under the London Charter laid down by the IMT and hereinabove quoted, the conspiracy of which eight of the defendants before that Tribunal were found guilty was the concrete plans to wage aggressive war which were formulated by Hitler as early as 1937 and disclosed by him to a few of his top leaders in four secret key conferences held on 5 November 1937, 23 May 1939, 22 August 1939, and 23 November 1939. This Tribunal is bound by this finding with respect to the existence of a common plan or plans to wage aggressive wars and no other such plans are shown by the evidence in the present case. Indeed, in earnestly pressing the

conspiracy charge contained in count four, the prosecution does not contend at all that the defendants participated in these plans but as indicated in a wholly different plan which it is insisted amounted to a crime against the peace. This is not easy to follow but it must be understood if the prosecution's contention is comprehended. Just how radical is the departure from the conspiracy as it was found to be by the IMT is indicated by the following further quotation from the brief:

> "The activities of the Krupp firm in preparation for war long antedated its alliance with Hitler. When Gustav Krupp entered into an agreement with the then heads of the German state in 1920 to preserve Germany's rearmament potential for a future struggle, Hitler was the leader of an obscure political movement. *It would be clearly absurd to say that the intention with which this, and other activities of the Krupp firm in implementation of that decision, were formed, is to be determined by proof of the presence or absence of knowledge of decisions taken by Hitler 15 years later.* The continued activity of the Krupp firm in support of Hitler, after it became evident to all that he stood for aggrandizement of Germany at the expense of its neighbors, reinforces the conclusion that its activities at all times had this as its purpose, but it is not, and could not be, the only proof of such intention." [Emphasis supplied.]

It is further contended that in order to convict these defendants under the conspiracy charge it was not necessary as held by the IMT with respect to the conspiracy there involved that the prosecution show knowledge on their part of Hitler's plans to wage aggressive war as they were found to be by that Tribunal. Upon the contrary, it is insisted that it was sufficient to show merely "that the defendants intended without regard to and without exact knowledge of Hitler's plans that military power be used for the aggrandizement of Germany or be used in violation of treaties."

As further indicating how radically the prosecution has departed from the rationale of the opinion of the IMT and the construction it gave the London Charter, the following additional passage from the brief is equally illuminating:

> "To be guilty of participating in the preparation * * * of criminal war it is not necessary to show that the defendants believed or intended that employment of Germany's military power would result in actual armed conflict. Whether or not a war actually occurred would depend on the attitude taken by the victim nations to the threat of force. If the military power

of Germany was so overwhelming as to make resistance futile, there would be no war, yet the aggrandizement of Germany would as surely have been accomplished through the employment of military power as though a successful war had been concluded."

By way of contrast to the foregoing theory it will be observed from the quotation hereinabove, the IMT stated the question before it to be "whether a concrete plan *to wage war* existed, * * * which obviously is quite a different thing from the prosecution's contention. This alone, it seems to me, would be a sufficient answer to the conspiracy count. To further consider the matter, however, it becomes necessary to determine whether the contention outlined by these passages from the brief has any sound legal basis either in Control Council No. 10, the London Charter, or international customary law.

The "Krupp conspiracy" is alleged to have been formed in 1919 by Gustav Krupp in conjunction with the then officials of the Krupp concern. Only three of the defendants in this case were connected with the firm at that time and it is conceded that "none of them occupied a sufficiently important position to justify charging them with the responsibility for decisions taken at the end of 1920." But it is sought, nevertheless, to hold them liable for those decisions upon the theory that they participated in the execution of the alleged conspiracy. The other defendants became connected with the firm at various times over the period from 1926 to 1937, and it is sought to hold them retroactively responsible for the original agreement between Gustav Krupp and his then associates; for that agreement and not its execution, is the gist of the offense of conspiracy which is complete from the moment the combination or confederacy is formed.

It is also conceded that ultimate authority to settle the problems which faced the Krupp firm in 1919 as a result of the Versailles Treaty, and out of which the alleged conspiracy arose, rested in Bertha Krupp and her husband, Gustav Krupp, who actually exercised the proprietary management.

Whether it be called the "Nazi conspiracy", the "Krupp conspiracy", or by some other name, to be a crime under Control Council Law No. 10 or the London Charter, a conspiracy must meet at least three requirements: (1) There must be a concrete plan participated in by two or more persons; (2) the plan must not only have a criminal purpose but that purpose must be clearly outlined; and (3) the plan must not be too far removed from the time of decision and of action.

It is conceded, of course, that it must be shown that the conspiracy had a criminal purpose. In an effort to bring this essen-

tial element of the offense within the language of Control Council Law No. 10 and the London Charter, the alleged criminal purpose is, as already said, stated in general terms as being "first to prepare and then to wage aggressive war." But as also indicated this is unintentionally misleading. When considered in the light of the evidence there is no contention that the alleged "Krupp conspiracy" involved a concrete plan to wage aggressive war clearly outlined in its criminal purpose. Upon the contrary, when converted from the abstract to the concrete and reduced to its essentials, the real contention in this case is that in violation of the terms of the Treaty of Versailles, Gustav Krupp and his then associates entered into an agreement in 1919 whereby the armament potential of the Krupp firm was to be secretly preserved with a view to utilizing it in aiding the rearmament of Germany *if and when some future government embarked upon a rearmament program in support of a national policy of aggrandizement.*

To demonstrate that this is the real contention, an examination of the principal evidence relied upon to support it is in order. This consists of portions of certain documents offered in evidence by the prosecution. The first is from a report of the Krupp Direktorium for the year 1937–1938 made about twenty years after it is said that Gustav Krupp formulated his alleged criminal plan. This is as follows (*NI–1284, Pros. Ex. 125*) :*

> "With the end of the business year 1937–1938, twenty years have passed since the World War. Its unfortunate ending had fateful effects for us. The 'dictates' of Versailles prohibited us from manufacturing armaments and army equipment almost completely and demanded the destruction of machines and installations necessary for their manufacture. Under the supervision of the Inter-Allied Control Commission, approximately 10,000 machines, presses, furnaces, cranes and assembly shafts, over 800,000 gauges, die blocks, devices, and special work tools, as well as the installations of the firing ranges in Essen and Meppen were destroyed. Our firm had to decide whether it wanted to renounce, for all time, the production of war material and continue the enterprise on the basis of the coal mines, the refined steel works in Essen and the foundry in Rheinhausen while discharging all superfluous workers and employees, or whether it would continue employing its personnel with a new production program and keep the shops operating with the production of peacetime products."

How this problem was answered is set forth in the same report in the following language:

* Reproduced above in section B 1.

"In spite of numerous doubts and contrary to the advice of outside experts it (Krupp) decided, as trustee of a historical inheritance, to safeguard the valuable experiences, irreplaceable for the armed strength (Wehrkraft) of our nation, and through constant close ties with the works members to keep up the shops and personnel in readiness if the occasion should arise, for armament orders later on. With this view in mind, we chose objects for the new program of manufacture on which the personnel could obtain and improve their experience in the processing and refining of material, even though the manufacture and sale of these products partly entailed big losses. The change-over was made more difficult by the occupation of the Ruhr and its effects. But, after the inflation, the reserves built up by the very cautious evaluation of the property in the Goldmark balance, the proceeds from the coal mines, the Essen steel works and the foundry in Rheinhausen, as well as the renunciation of the payment of dividends, made it possible to overcome the difficulties of this period of time so full of losses.

"When in 1933 we were again called upon to manufacture war material in large quantities, we were immediately ready to do so, and in addition, we were able to let other firms profit from our experiences, safeguarded and newly acquired by the use of our capital. Workshops which had not been in operation for years or had only been operating on an insufficient scale were again put into operation and after a short preliminary stage were working at capacity. Recognitions for holding out and rapidly going to work fill us with pride. They prove that the sacrifices of the past safeguarded great values for our people.

"After having again abandoned the production of all objects which were only meant to keep our personnel and our plants occupied, our production program today is a carefully balanced whole in which peace and war production are organically united. * * *"

The omitted portions of the document emphasize what the quoted excerpts themselves show, namely, that the document was nothing more or less than a typical business report of a board of directors. It is noteworthy that the report describes the determination or plan of Gustav Krupp to keep his plant and personnel in readiness if the occasion should arise for armament orders later on.

The next document is an excerpt from an article written by Gustav Krupp in 1941 and published in the firm magazine. After

speaking of himself as the "trustee of an obligatory heritage," he wrote (*D–94, Pros. Ex. 124*) :*

"At the time (1919) the situation appeared almost hopeless. At first, it appeared even more desperate if one was not—as I was myself—firmly convinced that 'Versailles' did not mean a final conclusion. Everything within me—as within many other Germans—revolted against the idea that the German people would remain enslaved forever. I knew German history only too well, and just out of my experiences in the rest of the world I believed to know the German man; therefore I never doubted that although for the time being all indications were against it—one day a change would come. How, I did not know and also did not ask, but I believed in it. With this knowledge, however—and today I may speak about these things, and for the first time I am doing this extensively and publicly—as responsible head of the Krupp works, consequences of the greatest importance materialized. If Germany should ever be reborn, if it should shake off the chains of 'Versailles' one day, the Krupp concern had to be prepared again. The machines were destroyed, the tools were smashed but the men remained; the men in the construction offices and the workshops who in happy cooperation had brought the construction of guns to its last perfection. Their skill had to be maintained by all means, also their vast funds of knowledge and experience. The decisions I had to make at that time were perhaps the most difficult ones in my life. I wanted and had to maintain Krupp, in spite of all opposition, as an armament plant—although for the distant future."

Notwithstanding his belated and vainglorious statement, it is demonstrated beyond doubt that in making this decision Gustav Krupp was not motivated entirely by patriotic reasons. Thus, in 1940, in the midst of the war, the firm, in justification for an increase in the prices of its armament, directed the attention of the High Command of the German armed forces to the fact that from the year 1919 to 1933 the firm had maintained its employees and workshops, preserving their experience in the manufacture of war materials at their own cost, and that in this manner the basic plan of the reconversion to war production was retained whereby Krupp was enabled at the beginning of the rearmament period to produce armament in large quantities.

The foregoing evidence is sufficient to show that, notwithstanding the prohibition in the Versailles Treaty, Gustav Krupp, in 1919, decided to maintain the firm's armament potential consist-

* Ibid.

ing of a nucleus of its skilled employees, to the end that if and when the German Government was again in the market for war material the firm would be in a position to reenter that field of activity.

But the prosecution expressly disclaims an intention to level an attack against the business of making arms as such. It concedes, and properly so, that the "armorers trade is no more inherently unlawful than that of the soldier or diplomat; all of these professions revolve around war and statecraft, but that does not make them criminal *per se*." This is a realization that even under its theory of the law, in order to make the Krupp organization amount to a criminal conspiracy, it was necessary to show that the decision made by Gustav Krupp in 1919 was made with a criminal intent and amounted to a plan to accomplish an illegal objective; and further that the defendants participated therein with knowledge of its criminal character and with like intent. To show these essential facts the prosecution places much stress upon two sentences plucked from an article written for the Krupp firm in July 1940 by one Schroeder who was the head of the firm's accounting department and submitted to the High Command of the German armed forces. These sentences are as follows (*NI–764, Pros. Ex. 467*) :*

> "Without government order, and merely out of the conviction that one day Germany must again fight to rise, the Krupp firm has, from the year 1918 to 1933, maintained employees and workshops and preserved their experience in the manufacture of war materials at their own cost, although great damage was done to their workshops through the Versailles Treaty, and employees and machines had in part to be compulsorily dispersed. The conversion of the workshops to peacetime production involved losses, and as at the same time, the basic plan of a reconversion to war production was retained, a heterogeneous program as the result, the economic outcome of which was necessarily of little value; but only this procedure made it possible at the beginning of the rearmament period to produce straight away heavy artillery, armor plates, tanks, and such like in large quantities."

The emphasis of course is upon the rather dramatic and ambiguous phrase "fight to rise." We are not enlightened as to just what it means.

The foregoing sentences in which the phrase appears are from a lengthy document described by the prosecution when it was introduced in evidence as a *key* document. The circumstances

* Ibid.

under which it and a companion document were prepared demonstrate, I think, that the phrase "fight to rise," whatever was meant by it, cannot be utilized to give a criminal character to the activities of these defendants in pursuing their duties as employees of the Krupp firm.

From 1937 or thereabouts the Krupp officials were involved in a controversy with the government authorities over two matters. One was a requirement that the firm disclose to its competitors without compensation the special experience and skill it had acquired as a development concern. They contended that as the result of the contracts which the government had required the firm to take, it "had lost the major part of our private customers and have had to leave it for our competitors." They complained that the firm had been forced to pass on to other firms much technical data employed in the production of war materials and to train them in its use with the result "that the beneficiary can now undersell us on the open market," and that "the cession of the kind of experiences mentioned above has the result that the acquirers can make use of them not only for army purposes but also in the field of peacetime production and therewith become undeservedly our competitors in the production of peacetime goods." This phase of the controversy was pending with the Reich Minister for Armament. On the basis of data compiled by the defendant Eberhardt, Schroeder, the head of the accounting department, prepared a memorandum for use in discussing this matter with the government officials.

During the same period there was pending a controversy between the firm and the OKW (Armed High Command) over the prices demanded by Krupp for armament ordered by the government. These prices were supposed to have been based, like all prices for army supplies, upon production cost and profit. The controversy arose when Krupp's accounting department was unable to prove the figures demanded by the price checking division of the army.

The plight in which the firm found itself with respect to this matter is explained by Schroeder in an affidavit introduced by the prosecution. The affiant deposed in part as follows:

> "In the years of crisis after the First World War, Gustav Krupp von Bohlen had made arrangements not to charge a number of costs to the operating plants. These costs were therefore not contained in the production costs as shown by Krupp's accounting. Furthermore, Krupp's plants had been valued very low in the gold mark balance of 1924, so that in the meantime a large part of this low value had been written

off. Further trouble stemmed from the calculation of the gains which Krupp claimed. Normally, gains were essentially (1) from the interest on invested capital, (2) from a premium on risk, and (3) from a possible additional charge based on performance.

"The first two points were due to every army supplier and interest was always the same, while the risk premium varied from order to order. The so-called additional charge for performance was granted to special excellence in the performance of army orders, and the granting of this addition which was claimed by Krupp was a further point under discussion."

In this situation Schroeder, who seems to have been in active charge of the controversy with the government authorities, prepared a brief in support of the firm's claims. It is from this brief that the extract relied upon by the prosecution and hereinabove quoted is taken.

The brief recites the subject to be, "The Achievements of the Firm Krupp in the Conversion of their Production for War Purposes and the Necessity of Increasing Sales Prices for Upkeep of the Works." There follow in some nine pages the reasons supporting the contentions of the firm.

The document was submitted to the Army High Command with the result that an agreement was reached whereby, in the language of Schroeder, "Krupp essentially obtained demanded gratifications."

It seems hardly necessary to argue that, in the foregoing circumstances, the phrase "fight to rise again", used by Schroeder nearly twenty years after the conspiracy is alleged to have originated with Gustav Krupp; and after the period of preparation was over and the war well under way, cannot be utilized to give a criminal character to the activities of the defendants. Apart from all other considerations, it not only was not made in connection with or furtherance of any criminal conspiracy or plan to prepare or wage war but, it shows, as already said, that it was in furtherance of the legitimate interests of the firm from a strictly private business standpoint and this while the war was at its height.

Considered objectively and in the proper context, it is at least plausible that Gustav Krupp's decision made in 1919 was a calculated business risk. Here was a man faced with the loss of a large part of what doubtless was a profitable business that had been built up over a long period of years. He concluded there was a strong possibility that the obstacles then preventing him from engaging in that field of activity would sooner or later be removed by the repudiation of the Versailles Treaty or otherwise,

and that the German Government would then be again in the market for armament. In this situation he decided to be prepared to, at that time, immediately reengage in that business. When, in 1933, his calculation proved to be correct, the Krupp firm was ready to begin the production of arms at once, thus no doubt gaining a considerable advantage over its competitors. It is true that the result was a contribution to the rearmament of Germany but it is not contended that in reaching his decision and formulating his plan Gustav Krupp had any idea of aiding in that project except for a profit. Upon the contrary, as is said, the prosecution concedes that his decision was not made for purely patriotic reasons and it is shown conclusively that when the firm did begin the production and sale of armaments the prices were fixed at a figure which enabled it to recoup the losses sustained in preserving the firm's armament potential during the period from 1919 to 1933 when the production of armament was prohibited. In this connection it cannot be reasonably said that in making his decision Gustav Krupp was influenced by the desire to make armament for Germany alone or that such was his intention. Upon the contrary, the only reasonable view is that his decision was made with the intention of re-engaging in the armament business generally when the opportunity denied him by the Versailles Treaty came. This is conclusively shown by what happened. In 1933 or shortly thereafter, the Krupp firm did exactly that. It not only manufactured armament for the German Government but diligently sought the more profitable business of other governments apparently without discrimination. Hence, under the evidence in this case, it is not an altogether unreasonable view that Gustav Krupp would not have made the same decision unless he had believed that it was to the firm's financial interest. The continued insistence even during the war on profits and the efforts to recoup prior losses through high prices charged his government negatives the idea that he would have incurred the hazard for what he later claimed to have been patriotic reasons. But this view may be laid aside.

The prosecution's position would be unassailable from a factual standpoint if the charge were that Gustav Krupp formulated and, in conjunction with the then officials of the firm, executed a plan to violate the disarmament provisions of the Versailles Treaty. Indeed when it is considered in the light of the evidence offered to support it, this necessarily seems to be the primary basis for the conspiracy charge.

It is shown beyond doubt that Gustav Krupp did as claimed and also that in many respects he practiced a gross deception upon the Inter-Allied Control Commission which was set up to

supervise the compliance with the disarmament provisions of the Treaty. This conduct on the part of Gustav Krupp was indefensible from a moral point of view. But however reprehensible from that standpoint, it was in my opinion no crime *per se* either under the London Charter or Control Council Law No. 10.

Under the construction given the former by the IMT the conspiracy to commit crimes against the peace involving violations of a treaty is confined to a concrete plan to initiate and wage war and preparations in connection with such plan. Control Council Law No. 10 is to be likewise construed. Independently of the government, the firm of Krupp could not wage war within the meaning of Control Council Law No. 10 or the London Charter, nor was it apparently possible that it could do so.

In this connection it is interesting to note that the IMT pointedly refrained from a finding on the specification in the indictment that the defendants there had violated the disarmament clauses of the Versailles Treaty, or basing a conclusion thereon. Yet we have that specification repeated here as a primary basis for the conspiracy charge.

The prosecution's theory of an independent "Krupp conspiracy" considered in the light of the foregoing evidence presents a serious question of jurisdiction. A conspiracy to commit a crime and the commission of that crime are separate and distinct offenses. At common law of those nations which recognize the offense it is complete the moment the confederacy or combination is formed and without any overt act. It is usual, however, to set out in the indictment such overt act or acts as may have been committed in order to effect the common purpose, and that is what was done in this case by the reference in count four to the allegations in count one. But this is not necessary and when such acts are pleaded and shown they are regarded only as proof of intent or as matters in aggravation of the criminality of the combination.

Hence, it is not sought under count four to hold the defendants for their activities in producing armament for the German Government. Such activities were in execution of the alleged conspiracy and, as the prosecution says, are the basis of the charge of siding in the actual preparation for war as charged in count one.

But as said, they do not constitute the offense charged in count four. Upon the contrary the gist of the conspiracy considered in the light of the foregoing evidence essentially is the agreement or combination alleged to have been made by Gustav Krupp in 1919 with the then officials of the Krupp firm and that offense was complete at that time.

That this is the view of the prosecution and involves a true conspiracy as that offense is known at common law of the Anglo-American nations is demonstrated by the following passage from the brief:

> "The acts of the individual defendants which we charge show their participation in the preparation and waging of aggressive war under count one are the same acts which are relied on as showing their participation in the conspiracy charged under count four. The elements of the crime in both instances are substantially the same and the same evidence has been presented in support of both charges. * * * The crime of conspiracy, however, has certain characteristics and consequences which make it peculiarly applicable to the circumstances of this case.
>
> "The crime of conspiracy, ancient and well known, condemns the joining together of persons to pursue unlawful ends by legal or illegal means. The gravamen of the crime is association or acting in concert for the purpose of formulating or executing a common plan involving criminal ends. Those who participate in a common plan or conspiracy become liable for the acts of every other conspirator committed in pursuance of the conspiracy during its continuance even if committed prior to their entry into it. If the conspiracy is illegal each member of it is guilty of criminal conduct although he may have committed no illegal act himself."

It is not contended that the particular defendants were parties to the alleged criminal agreement at the time it was first formed. Upon the contrary it is sought to hold them retroactively responsible under the Anglo-Saxon common law rule that those who join a previously formed conspiracy are equally liable with the others for the original agreement. It is not necessary to stop to inquire whether, under the construction given the London Charter, the prosecution can invoke this rule of the Anglo-Saxon common law. The decision as to several of the defendants in that case, for instance as to Speer and Doenitz, makes it extremely doubtful.

However this may be, it is obvious that under the prosecution's theory of an independent "Krupp conspiracy" it is sought to hold the defendants guilty of an offense which was complete in 1919, and it is this that poses the jurisdictional question.

This is an *ad hoc* Tribunal. It was created as an instrumentality to administer the provisions of Control Council Law No. 10 and for no other purpose. Control Council Law No. 10 was enacted for the express purpose of giving effect to the terms of the Moscow Declaration of 30 October 1943, and the London Agree-

ment of 8 August 1945, and the Charter issued pursuant thereto. Both the Moscow Declaration and the London Agreement which are made integral parts of Control Council Law No. 10 refer exclusively to war criminals whose crimes were committed in connection with the series of wars initiated by the Nazi government on 1 September 1939. So here we have a Tribunal drawing its jurisdiction exclusively from the fact of a series of particular wars called upon to take cognizance of an alleged offense which was admittedly unconnected with any of the plans to wage the particular wars upon which the jurisdiction of the Tribunal depends and which was committed in the time of peace twenty years before the outbreak of any war and at a time when the defendants were not "alien enemies" within the meaning of the laws of war.

To sustain this view of the case would be a radical departure from the laws and customs of war.* It was, I venture to think, to avoid such an anomaly that in the case before it the IMT restricted the scope of the conspiracy denounced as a crime by the London Charter to a concrete plan which led to the initiation of war and which, from a standpoint of time and causation, was not so remote from that action as to preclude it being considered an essential part of the fact from which the Tribunal drew its jurisdiction, namely, the particular wars themselves.

But the decision of the Tribunal as to the conspiracy charge finds support on other and different grounds. To sum up, the most that can be said for the prosecution's contention as disclosed by the evidence is this: In 1919, Gustav Krupp hoped and expected, "how he did not know," that the disarmament provisions of the Versailles Treaty would be removed by repudiation or otherwise, and that some future German Government would embark on a rearmament program in connection with an effort to relieve that nation of the burdens of the Treaty. On the strength of this expectation and hope, he, in association with the then officials of the Krupp firm, decided to secretly preserve the firm's armament potential to the end that if and when the opportunity came the firm would be in the position to aid in such a program by again manufacturing and selling armament to the government for a profit; that the opportunity did not come until 1933 when the Krupp firm again began receiving orders for armament from the German Government which by reason of the preparations made in 1919–1920 it was enabled to begin filling immediately. In this connection however, it should be noted again that when it did reenter that field of activity, the buiness was not

* Cf. Gen. J. H. Morgan, K. C., "Nuremberg and After," The Quarterly Review, October 1947, London.

confined to orders from the German Government but included the solicitation and acceptance of orders from other governments apparently in the regular course of the conduct of an armament business. In short, in 1933 the firm, ahead of its competitors by reason of its foresight, was again active in the ordinary business of manufacturing and selling armament apparently without discrimination to whomever wanted to buy and had the price, and at the same time continued production of peacetime products on a large scale.

Apart from any question of whether the requisite participation on the part of the particular defendants was shown, a determinative inquiry is whether the agreement made in 1919 by Gustav Krupp with the then officials of the Krupp firm constitutes a common plan or conspiracy to commit a crime against the peace as defined by Control Council Law No. 10 and the London Charter.

As already said, the prosecution occasionally use the alternative expression, "to prepare or to wage war," in stating the alleged criminal purpose of the "Krupp conspiracy." But it is obvious that there is no serious contention that it embodied a concrete plan to wage war. To repeat, the firm of Krupp could not wage war or aid in doing so independently of the German Government, and it was not apparently possible that it could do so. Upon the contrary, in order to make the theory conform to the language of Control Council Law No. 10 and the London Charter it is necessary to regard the alleged criminal purpose of the plan to have been to prepare to aid in the preparation for war through the manufacture and sale of armament, if and when such a program should be adopted by some future German Government. The question then is whether such a plan was a crime against the peace.

It is worth pointing out that whatever was true from 1928 onward, it is a debatable question as to whether aggressive war or a conspiracy to that end was a crime under international customary law as it stood in 1919 when the alleged confederacy was formed by Gustav Krupp and the then officials of the Krupp firm.

To give an affirmative answer to the prosecution's contention, I venture to think, would be to expand the concept of conspiracy even beyond the limit fixed by domestic common law of the Anglo-Saxon nations to say nothing of international law as laid down by the IMT.

Criminal conspiracy as a substantive offense, distinct from the continental concept of complicity, is said to be of Anglo-Saxon origin. It is true that in England and the United States the offense as originally conceived has been greatly expanded in modern times. The tendency to broaden it has alarmed thoughtful

scholars and jurists. Thus, Mr. Justice Jackson said, in the course of the trial of Goering, et al., that "conspiracy is the great dragnet of the law rightly watched by courts lest it be abused," and in a well-considered article appearing in the February 1922 issue of the Harvard Law Review, after tracing the growth of the offense from its origin and lamenting the tendency to further expand it, Francis B. Sayre, a legal scholar of high repute, said this:

"If a legal doctrine is to be tested functionally according to the degree of security which it affords to the individual and social interests which the law was created to protect, any doctrine which tends to rob the law of its predicability, therefore, must be accounted pernicious. It is hard to imagine a doctrine which would more effectively rob the law of predicability so far as it is applicable than the one that a criminal conspiracy includes combinations to do anything against the general moral sense of the community. Under such a principle every one who acts in cooperation with another may some day find his liberty dependent upon the innate prejudices or social bias of an unknown judge. It is the very antithesis of justice according to law. There will be a very real danger of courts being invoked, especially during periods of reaction, to punish, as criminal, associations which for the time being are unpopular or stir up the prejudices of the social class in which the judges have for the most part been bred."

See also Wharton on Criminal Law, volume II, section 1603 and section 1629.

As to the preparation for crime in relation to a conspiracy, Mr. Wharton, in his authoritative work on criminal law states the law to be as follows:

> "Mere thoughts are not indictable, nor is the expression of thought, unless as a scandal or a political wrong. Such expressions, if not indictable when uttered by an individual, do not become indictable when uttered by a crowd. *Nor are preparations for crime indictable,* unless under special statute, or *unless such preparations are made in complicity with those by whom the crime is executed.* We must here again appeal to the distinction already fully set forth between a condition and a juridical cause. The selling of a gun, for instance, is a condition of the gun's being used in a homicide; but it is not a juridical cause, unless the seller disposes of it for the purpose of killing a third person, and thus becomes accessory before the fact in such killing. The turning of a drunken man into the street is a condition of his being subsequently struck by lightning when lying in the public road; but it is not the juridical

cause of such death, because the stroke of lightning was an extraordinary natural occurrence, not in any way a likely consequence of turning the man out of doors. If, on the other hand, the drunken man was in a helpless state, and if the cold outside were such that he would freeze to death when exposed to it, then turning him out of doors was the juridical cause of his death, since the death resulted from this act, and not from either collateral human intervention or an extraordinary natural occurrence. This check, which applies equally and invariably to all criminal prosecutions, is peculiarly important in conspiracy. The dangers arising from a vague extension of conspiracy have been already noticed; and it will be seen that the offense has been sometimes made to embrace cases which a wise and humane jurisprudence would withdraw from criminal cognizance. *These dangers would be greatly multiplied if we should hold that conspiracy includes a combination to produce such conditions of crime as are distinct from juridical causes.* If the law be thus stretched, indictments for conspiracy could be maintained against all who furnish firearms or other lethal weapons; against all who mold type which could be used for incendiary publications; against all who contribute the material, however indifferent, which is subsequently employed for purposes of guilt. Undoubtedly there are *dicta* by English judges which go to sustain this position; though these *dicta* are usually qualified by the statement that the manufacturer or producer is not to be held guilty unless he anticipated the guilty use to which the instrument is to be put. But what thoughtful man who manufactures or sells any dangerous weapon or compound does not anticipate that there may arise contingencies in which it may be put to an unlawful use? And what safety or uniformity can there be in the administration of penal justice, if it depend upon the surmises a jury may make as to a defendant's capacity of anticipation? The only safe course is to make the test objective, even, and palpable, and to apply universally the limit here presented holding that conspiracy does not lie unless the defendants can be proved to have done something which, if not interrupted by extraordinary natural occurrences, or by collateral human intervention, would have resulted in an unlawful act. But if so, the conspiracy is indictable, though the overt act was not consummated." [Emphasis supplied] (Wharton's Criminal Law, vol. II, sec. 1605, pp. 1863–1864.)

Under this doctrine it seems clear that if the manufacture and sale of armaments for profit can be regarded as preparation for

war in a criminal sense it can only be so if done in complicity with the plans of some agency capable of planning, initiating, and waging war and which in fact does so, or as the result of a special statute: otherwise, there is no crime in any event for, as Mr. Wharton points out, the preparation must be regarded as a mere condition and not a juridical cause of the offense which was actually committed. In the present case, conceding the most that can be reasonably said by the prosecution of Gustav Krupp's decision in 1919, it is obvious that the crime of aggressive wars beginning in September 1939, from which this Tribunal draws its jurisdiction, as well as the preparation therefor, resulted not from that decision but from the collateral intervention of Hitler as the head of the Nazi government and his collaborators.

In connection with the contention that mere preparation for war alone is a crime, F. B. Schick, of the University of California, writing in the University of Toronto Law Journal, volume III, pages 27 and 40, makes this highly pertinent comment:

> "Interesting among the delicts declared to be 'crimes against peace' is the provision according to which the planning or preparation of an illegal war constitutes an international delict. It would seem that this legal innovation, if it were to be accepted as a precedent for possible prosecutions of future war criminals, could render criminally responsible, at any time, every individual, everywhere. As a rule it is impossible to know in advance whether the planning or preparation of certain acts is to promote an illegal war. Nor is it possible to ascertain whether services rendered in times of peace in order to strengthen the military and economic war potential of a state, and—by doing so—to guarantee national as well as international security, will be construed at some later date as contributions to the planning and the preparation of an illegal war; or, would anyone doubt that the present search for new, and more effective, weapons carried on so successfully by scientists, industry, and top ranking officers of the victorious armies and navies under the leadership of the three most powerful of all peace-loving nations is being intensified for any but security reasons?"

The article in which the foregoing passage appears was obviously written after the indictment was returned but before the judgment of the IMT was rendered. As will be seen the Tribunal was apparently equally aware of the danger pointed out by the author and avoided it by the construction it gave the language of the Charter defining crimes against the peace.

In demonstrating this it will also become apparent that within

the exception mentioned by Mr. Wharton, neither the Control Council Law No. 10 or the London Charter can be regarded as a special statute making indictable preparations for the crime of aggressive war apart from the plans of those by whom that crime was committed or capable of being committed. It seems to me that this was pointedly and decisively shown by the IMT.

In dealing with conspiracy under the London Charter it was a basic assumption of the judgment of that Tribunal that before they could be regarded as criminal, the acts of the defendant must have been connected with the plans pursuant to which the crime of aggressive war was committed. Thus, by construction, the provision of the London Charter defining crimes against the peace was made to conform to the doctrine expounded by Mr. Wharton. That this is true was further indicated by the Tribunal when, in disposing of the case of Schacht, it was said, "But rearmament of itself is not criminal under the Charter. To be a crime against the peace under Article 6 of the Charter, it must be shown that Schacht carried out this rearmament as a part of the Nazi plans to wage aggressive wars."[1] Hence, in my opinion, a fundamental fallacy in the prosecution's theory of an independent "Krupp conspiracy" is the view that under Control Council Law No. 10 and the London Charter, preparation for war in the form of rearmament apart from the concrete plans of the Nazi government to initiate and wage war is in and of itself a distinct crime against the peace, and that therefore a combination having as its objective mere preparation and not involving such concrete plan to initiate and wage war is also a crime. As already pointed out, in stating the question which was to be determined in disposing of the conspiracy charge, the IMT said, "The Tribunal must examine whether a concrete plan to *wage* war existed and determine the participants in that concrete plan;"[2] and this notwithstanding that the conspiracy count charged not merely a common plan to wage war but a conspiracy which embraced as well the planning, preparation and initiating wars of aggression and many of the acts set forth in support of the charge were preparatory in nature just as is true in the present case.

It seems to me that primarily the crimes against the peace recognized by the London Charter and Control Council Law No. 10 are the waging of aggressive war and a common plan or conspiracy to that end. But the IMT seems to have considered that under the former, planning, preparation, and initiation together constitute one offense and waging war another. A conspiracy to accomplish either is also recognized as a crime. See, for instance,

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[1] Trial of the Major War Criminals, *op. cit., supra*, vol. I, p. 309.

[2] Ibid., p. 225.

the verdicts as to Speer and Doenitz. But as indicated above, there is, I think, no justification for the view that the IMT considered mere preparation apart from planning and initiation to be a separate and distinct offense and, hence, that a conspiracy to prepare for war in the absence of and apart from the concrete plan to initiate and wage aggressive war was a crime against the peace.

This seems to be the view of Professor Quincy Wright of the University of Chicago, an outstanding scholar and member of the Board of Editors of the American Journal of International Law. Referring to the construction given the London Charter, Professor Wright, in his penetrating and sympathetic analysis of the judgment of the IMT, says this:

"This interpretation narrows the meaning of the words 'planning' and 'preparation' to activities intended by the individual to contribute to the 'initiation' of a war which he knows will be 'aggressive' and it narrows the word 'waging' to activities intended by the individual to win such a war * * *. The planning, preparation, initiation, and waging *must be related to an actual or concretely planned war which the individual believes has been or is about to be initiated for aggressive purposes* in the sense that the hostilities do or did constitute the international delinquency of aggressive war." [Emphasis supplied][1]

Every member of the Nuernberg Tribunals has doubtlessly lamented the dearth of facilities for research, but so far as I am aware, no commentator has reached a conclusion different from that expressed by Professor Wright with respect to the proper interpretation of the IMT judgment. Certainly Professor Donnedieu de Vabres, the French member of the IMT, did not do so in dealing with the judgment in his article hereinafter referred to.[2]

The foregoing construction by Professor Wright precludes a basic assumption of the prosecution's theory, namely that participation in a conspiracy formed by private citizens to prepare for war independently of any agency capable of initiating and waging war is a crime, even though, in the language of the brief, "such * * * participation * * * takes place in advance of the crystallization of the plans (of the government) to wage aggressive war."

This brings forward another consideration. The crime of conspiracy belongs to the class of delicts, known as attempts to commit crime. In this class of cases it is essential that the means

[1] Quincy Wright, *op. cit., supra*, p. 38.

[2] "The Judgment of Nuernberg and the Principle of Legality of Offenses and Penalties", *Review of Penal Law and Criminology*, July 1947, Brussels.

be apparently adapted to accomplish the end and that the circumstances surrounding or accompanying a defendant's acts make the accomplishment of the criminal objective apparently possible. Conspiracies differ from attempts only in that in the former it is not necessary that the act of the accused shall approach as near to the consummation of the criminal objective as in the latter and in conspiracy, as distinguished from attempt, two or more persons are necessarily involved.

Applying this rule the *theory* of an independent "Krupp conspiracy" fails because as already said the firm of Krupp, independently of the plans of the Nazi government could neither wage war nor aid the nation in preparing to do so, nor was it apparently possible that it could do either.

Moreover, it seems obvious to my mind that the theory of an independent "Krupp conspiracy" to prepare for war, carried to its logical conclusion, would necessarily mean that, granted the required criminal intent on the part of the participants, they would be guilty of a crime even though no German Government ever planned, initiated, or waged an aggressive war and even if the armament purchased of Krupp had been used exclusively for legitimate purposes.

I am not persuaded that there is anything in Control Council Law No. 10 or the London Charter that justifies that anomalous conclusion.

In my opinion, "planning, preparation, and initiation" as those words are used in the London Charter and Control Council Law No. 10 are in practical effect the same as a conspiracy to wage war. They are merely descriptive of the activities prerequisite to the crime of aggressive war and, to be of determinative significance, must be connected with a concrete plan of some agency capable of waging war clearly outlined in its criminal purpose and, moreover, must not be too far removed from the time of action and decision.

Incidentally, though not necessarily determinative, it is noteworthy that Gustav Krupp's decision in 1919 was made and the offense, if any, completed before the Kellogg-Briand Pact was signed, and at or about the time the American representatives on the Commission to determine the responsibility of the authors of the First World War were contending in a minority report that the trial of the former Kaiser would involve the application of *ex post facto laws.*

It is also interesting to know that the Allied governments were fully aware that the Versailles Treaty was being violated and that Germany was rearming or preparing to do so. The prosecution introduced as a witness General J. H. Morgan, Kings

Counsel,* eminent British lawyer, author, and the sole surviving member of the Allied Control Commission set up to supervise compliance by Germany with the disarmament provisions of the Treaty. There was also put in evidence General Morgan's highly informative book, "Assize of Arms" which gives an illuminating account of the efforts of the Commission, and of how they were thwarted. Incidentally, this book, in my opinion, can be read with profit by those who will be in authority in the troublesome days ahead. General Morgan's testimony leaves no doubt about the fact that as early as 1921 the Allied Governments were fully informed that the German armament potential had not been destroyed and that German industry in general and the firm of Krupp in particular were successfully resisting the efforts of the Allied Control Commission to enforce the disarmament provision of the Treaty.

In the final report of the Commission made in February 1927, after it had been ordered withdrawn following the signing of the Treaty of Locarno and the admission of Germany to the League of Nations, it was said that "the resistance of the Krupp firm to the efforts of the Commission to enforce disarmament provisions of the Treaty were great and always encouraged by the German Government." Particularly pertinent is the further statement made in this report that, "initially the firm (Krupp) anticipated that they would eventually be permitted to manufacture every type of war material and that many special tools, jigs, and gauges which gave the best results in the war, although ordered by the Commission for destruction, were withheld under various pretexts, which pretexts were upheld by the government." This is in substance exactly what the prosecution complains of in this case.

Moreover, General Morgan testified as follows: "At the end of their report (the final one) they submitted an estimate, worked out with care and most convincing data, as to how long it would take Germany, if we (the Commission) were withdrawn, to resume war manufacture on a maximum scale achieved by the Hindenburg program in the last 2 years of the war. Their estimate was that in the event of the sudden withdrawal of the Commission it would take Germany just 12 months."

General Morgan explained that the failure of the Allied governments to take appropriate action when they finally came to consider Germany's violation of the Treaty was due to the fact that it was feared that she would regard the disclosure of her bad faith as an unfriendly act and would withdraw from the

* General Morgan's testimony is recorded in the mimeographed transcript, 15, 16 December 1947, pp. 490–607.

League of Nations. The decision of the Allied statesmen is quite understandable and not subject to criticism based upon hindsight. These were the days when the large part of the civilized world placed its hope of permanent peace in the League of Nations.

In this connection, it is also noteworthy that the Nye Investigations in the Senate of the United States, of which we take judicial notice, disclosed that prior to the repudiation of the disarmament provisions of the Versailles Treaty in 1935 when Germany was already engaged in a rearmament program private firms in some of the Allied Nations, including firms in the United States but none in France, were selling airplanes and large quantities of arms to Germany in violation of the Treaty provisions.

The diary of Mr. Dodd, United States Ambassador to Berlin during the rearmament period, is highly illuminating and leaves no doubt about the fact that even prior to 1935 the Allied Nations were fully aware that the German Government was purchasing from firms, both inside and outside of Germany, armament in connection with its rearmament program.

This, of course, would not justify criminal conduct, if any, on the part of the defendants. It is pertinent only as bearing upon the question of whether the defendants had reason to believe that the particular activities in which they were engaged would be considered indictable under international customary law. Needless to say, however, for such evidence to be of any significance a lack of knowledge of the Nazi plans for aggressive war is to be presupposed.

It is, of course, a somewhat different case where usage and custom has culminated in a concrete expression of the law as, for instance, in The Hague Rules of Land Warfare and the Geneva Convention. In such a case the enactment gives the required notice just as is true in the case of statutory municipal law or judicial precedent at common law.

In this connection it is interesting to note the view of General Morgan, the witness, whose testimony has just been referred to. As stated, General Morgan is not only a man of wide experience, particularly in the relations of Germany and the Allied Nations following the First World War, but is also an outstanding British lawyer. In a thought-provoking challenge to the view of the IMT that independent of the London Charter aggressive war was a crime under international customary law, General Morgan, after expressing approval of the count charging war crimes, said that "the counts of conspiracy, of aggressive war, and of crimes against humanity had better never have been framed at all." General Morgan's article entitled "Nuremberg and After", ap-

pears in two parts, the first in the April 1947 number and the second in the October 1947 number of the Quarterly Review published in London.

That it was essential to the prosecution's case to escape the definition of conspiracy given by the IMT has already been adverted to. The view that this definition was due solely to the fact that the charge in the indictment before the IMT was the broad "Nazi conspiracy" involves, I think, a misconception. The Tribunal spoke not solely with reference to the particular case. It was construing the language of the Charter and pronouncing a rule to be applied in all cases of conspiracy based upon that enactment. It cannot, I think, be seriously contended that under the same law the rule defining a conspiracy could be one thing in one case and another thing in another case. Such a view would rob the law of all predictability. It would make the law depend upon the allegations of the indictment rather than to require the sufficiency of the charge to be tested by the rule of law.

Contrary to the prosecution's contention, in my opinion, the restricted scope given the concept of conspiracy by the IMT was superinduced by the commendable desire to avoid a violation of the principle embodied in the maxim, *nullum crimen sine lege, nulla poena sine lege.* This was accomplished by making the definition conform to the continental concept of the offense of complicity. This seems to be the view of Professor Donnedieu de Vabres, the French member of the IMT, expressed in his article already referred to, entitled "The Judgment of Nurnberg and the Principle of Legality of Offenses and Penalties," published in Brussels in the Review of Penal Law and Criminology for July 1947. Referring to the opinion of the IMT, the eminent jurist, in the course of that article, states:

> "In application, (of the rule defining conspiracy) it was the attendance at military conferences where Hitler developed, in the presence of his fanatics: a Goering, a Ribbentrop, a Keitel, a Raeder * * * the details of current or contemplated aggression (Hossbach and Schmundt documents) which was, for the Tribunal, the criterion of criminal participation. For it is really a question of complicity. Well defined and precise as the Tribunal required, the established facts correspond to the types of 'complicity' provided for by Article 60 of our own Penal Code (providing means, help, and assistance) as well as and even better than they correspond to the vague notion of 'conspiracy.' Thus, the difficulty of creating a distinct offense, which would be prejudicial to the principal of legality of offenses and penalties, is eliminated."

It will be observed that the foregoing is also substantially in accord in principle with Mr. Wharton's view of criminal conspiracy under the domestic law of the United States as hereinabove set forth.

As already said, it is misleading to describe the prosecution's theory of an independent "Krupp conspiracy" as being one "first to prepare and then to wage war." On the other hand when the brief is carefully analyzed it is obvious that the real theory is that the "Krupp conspiracy" was not one involving a concrete plan to wage war but one formed in 1919 to support by aiding in rearmament, a national policy of aggrandizement at the expense of other nations, if and when such a policy was adopted by some future government of Germany and that this hope or expectation which essentially formed the basis of the alleged conspiracy became a reality when the Nazi Party came to power in 1933. This is the initial and fundamental point of departure from the construction of the London Charter by the IMT with reference to crimes against the peace. That the foregoing is the real contention is conclusively shown by the statement of the prosecution as to its position with respect to the scope of crimes against the peace under Control Council Law No. 10, repeated here for convenient reference.

> "We submit that under the provisions of such law (Control Council Law No. 10) as well as under the principles of international law, that crimes against peace comprehend at least that any person, without regard to nationality or the capacity in which he acts, commits a crime against peace if he knowingly participates in developing, furthering, or executing a national policy of aggrandizement on the part of a country to use force in order (*a*) to take from the peoples of other countries their land, their property or their personal freedom, or (*b*) to violate international treaties, agreements or assurances; or if he knowingly participates in a common plan or conspiracy to accomplish the foregoing."

As has already been pointed out, in applying the foregoing legal proposition the prosecution goes so far as to maintain that it is not even necessary to show "that the defendants believed or intended that the employment of Germany's military power would result in actual armed conflict."

I must confess that I am unable to find any basis in the language of either the Control Council Law No. 10 or the London Charter for the legal proposition stated by the prosecution as the major premise of its case. In taking it as the basis for its case, it seems to me to be clear the prosecution has reverted to the

conception of a "broad Nazi conspiracy" exemplified by the openly and widely proclaimed program of the Nazi Party and government upon which the prosecution based its case before the IMT and which Tribunal pointedly and decisively declined to adopt. The prosecution before the IMT described the Nazi Party as the "instrument of cohesion among the defendants and their co-conspirators and an instrument for carrying out the purpose of their conspiracy," whereas the prosecution in this case says, "in 1933, it (the Krupp firm) entered into an alliance with that party for the realization of their common objective."

It is obvious, therefore, that the only difference in the two theories is this: The "instrument of cohesion" among the defendants before the IMT was alleged to have been the Nazi Party, whereas here the instrument of cohesion is said to have been the firm of Krupp. But in both instances the Nazi Party was "the instrument for carrying out the purpose of the conspiracy" as the prosecution in the case before the IMT described it, or it "made possible the achievement of the Krupp conspiracy" as the prosecution in the present case has it. Also, in both instances the alleged criminal purpose was the same, namely, "the aggrandizement of Germany at the expense of other nations" as outlined in the program of the Nazi Party and government. It was this lack of a concrete plan and the broad sweep of the alleged criminal purpose which the IMT found objectionable. Thus, the French member of the Tribunal in the article above referred to, says that "the nature of a conspiracy is restricted (by the judgment) since the Tribunal, abstaining from a consideration of the broad plan which aimed at conquest of 'vital space' (living space), considers only participation in a particular aggression."

There are many passages in the brief which demonstrate that the alleged criminal purpose of the so-called "Krupp conspiracy" is in reality identical with the open conspiracy of the Nazi Party even though it may have originated beforehand. A number of these are hereinabove set out. Others even more decisive are hereinafter quoted in the consideration of the question of guilty knowledge on the part of the defendants. It is sufficient to say here that throughout the brief there runs the idea that the plan in which the defendants participated or came to participate was not a concrete plan to wage war clearly outlined in its criminal purpose, as held to be essential by the IMT, but the national plan of the Nazis for aggrandizement of Germany at the expense of other nations, which is nothing more or less than to state the Nazi Party program without mentioning it by name.

That in restricting the concept of conspiracy to a concrete plan

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to wage aggressive war the IMT decisively rejected this idea is too clear for argument. The grounds on which this was done cannot, I think, be circumvented simply by changing the name from a "Nazi conspiracy" to a "Krupp conspiracy." Hence, it is clear to my mind that to adopt the prosecution's position as to the law would be to expand the concept of conspiracy under Control Council Law No. 10 beyond that contained in the London Charter as construed by the IMT. The latter Tribunal, I think, went the limit fixed by the principle forbidding *ex post facto* laws and beyond that I am unwilling to go.

In concluding the response to the contention that the conspiracy among private citizens to "prepare for war" independently of and apart from the concrete plans of the Nazi government to wage war, I cannot do better than to repeat in part the quotation from the article by Professor Schick in the Toronto Journal, which is hereinabove cited:

> "It would seem that this legal innovation, if it were to be accepted as a precedent for possible prosecutions of future war criminals, could render criminally responsible, at any time, every individual, everywhere. As a rule it is impossible to know in advance whether the planning or preparation of certain acts is to promote an illegal war. Nor is it possible to ascertain whether services rendered in times of peace in order to strengthen the military and economic war potential of a state, and—by doing so—to guarantee national as well as international security, will be construed at some later date as contributions to the planning and the preparation of an illegal war."

As applied to the facts of the present case, it is no answer, I think, to say that in the case of a conspiracy exclusively among private citizens such as that here alleged, the question of criminal intent is the determinative factor. An evil intention is not a crime. To be of significance it must be coupled with the real or apparent possibility of doing the act contemplated.

From what has been said it follows that, in my opinion, there is no basis for the prosecution's theory of an independent "Krupp conspiracy." Therefore, from a criminal standpoint the activities of the defendants in the production of armament can only be considered in connection with the criminal plans of the Nazi government.

This theory is covered by the contention that the "Krupp conspiracy" fused with the "Nazi conspiracy" upon the seizure of power by the Nazi Party. This presents a question of a different type. The idea of a "Krupp conspiracy" independent and apart from the war plans of the Nazi government has disap-

peared. The question is no longer whether there was a criminal plan or plans for that essential element has been established by the judgment of the IMT. The inquiry, therefore, is whether the evidence was sufficient to show that the defendants participated in such plans under circumstances that made them guilty under the conspiracy count.

Preliminarily it may be said that Gustav Krupp embraced nazism shortly prior to the seizure of power by the Nazi Party and continued his allegiance thereafter. He played an important part in bringing to Hitler's support other leading industrialists and through the medium of the Krupp firm, the "two-legged stockholder's meeting," as the prosecution calls him, from time to time made large scale contributions to the Party treasury. But under the facts of this case this conduct on the part of Gustav Krupp cannot be charged against these defendants.

It is true that with exception of von Buelow and Loeser all of the defendants were members of the Nazi Party, but so far as appears they made no substantial contributions to that organization and their connection with it was confined in the main to the fact of membership, as was true of several million other Germans.

Moreover, the IMT pointedly rejected the contention of the prosecution in the case before it that significant participation in the affairs of the Nazi Party was a determinative factor in the consideration of the conspiracy charge.

After the Nazi seizure of power the activities of the defendants consisted primarily in the performance of their duties as the salaried executives and employees of a private enterprise engaged in the large-scale production of both armament and peacetime products. The armament was ordered by and sold to the German Government as a part of the rearmament program and also, as said, to other governments from whom orders were solicited and obtained in the normal course of such a business. As a matter of course, rearmament is a part of the preparation for war, but rearmament itself is not criminal. What the IMT held to be true with reference to Schacht whom it said was a "central figure in Germany's rearmament program" must also be true with respect to these defendants. That is, before their activities can be said to constitute a crime against the peace it must be shown that they were a part of the plans of the Nazi government to wage aggressive war.

It is essential therefore to determine whether the proof was sufficient to show that the defendants manufactured and sold armament to the government with the knowledge that the product was going to be used in some invasion or war of aggression

against another nation as these terms are defined in Control Council Law No. 10 and the London Charter, and with the intent to aid in the accomplishment of the criminal purpose of those initiating and waging such conflict.

This question is not to be determined by objective standards. Actual knowledge is required. The rule applicable in cases of ordinary negligence and similar actions has no place in criminal law.

I agree with the prosecution, however, that it was not necessary to show that the defendants participated in the four key conferences at which Hitler disclosed to a few top leaders his plans for an aggressive war. Nor do I think the IMT held this to be essential. In stressing the attendance or nonattendance at these meetings the Tribunal was merely pointing out the necessity for actual knowledge of the criminal purpose and the sufficiency or insufficiency of the evidence on that question and not announcing an exclusive standard by which this essential fact was to be determined. That this is true is shown by the conviction upon the charge of conspiracy of both Hess and von Ribbentrop, neither of whom were shown to have attended any of the conferences.

The requisite knowledge, I think, can be shown either by direct or circumstantial evidence but in any case it must be knowledge of facts and circumstances which would enable the particular individual to determine not only that there was a concrete plan to initiate and wage war, but that the contemplated conflict would be a war of aggression and hence criminal. Such knowledge being shown, it must be further established that the accused participated in the plan with the felonious intent to aid in the accomplishment of the criminal objective. In the individual crime of aggressive war or conspiracy to that end as contradistinguished to the international delinquincy of a state in resorting to hostilities, the individual intention is of major importance.*

In determining whether the defendants had the requisite knowledge it is of vital importance that they be not held for hindsight rather than merely for foresight. Nothing could be more unjust than to fail to observe this distinction. As was aptly observed by an eminent jurist, Mr. Justice Brewer, in United States *vs.* American Bell Telephone Co., 167 U.S. 224, 261, 17 S.C. 809, 818, 42 L. ec. 144, "A wisdom born after the event is the cheapest of all wisdom. Anybody could have discovered America after 1492."

As already said, the defendants were businessmen engaged in private enterprise as employees of a very large firm. Some of them were the managers of the business; others were subordinate employees. The facts and events relied upon to show knowledge

*Quincy Wright, op. cit., supra, p. 38.

of the Nazi plans must be considered as they appeared from time to time to them and not from the illumined viewpoint of subsequent events.

So considered, can the defendants justly be charged with the requisite actual knowledge?

Except by a few of the top leaders of the regime, the truth about the concrete plans of the Nazis to wage war never became known until after war was launched and all the facts and circumstances necessary to a determination that it was an aggressive war probably were not known to the general public in Germany until a considerable time thereafter. Indeed, the whole truth was likely not generally known until it was brought to light in the trial before the IMT.

As indicated by the judgment in that case, it is doubtful if Hitler himself had fully determined upon a concrete plan for a war of aggression much prior to 1937. Certainly prior to that time his top leaders and most intimate associates did not have the knowledge which the IMT held necessary to make their activities constitute participation in a criminal conspiracy. To these the information, as already said, was disclosed in four secret conferences held on 5 November 1937, 23 May 1939, 22 August 1939, and 23 November 1939.

But at the same time the general public was being told quite a different story. The Nazi propaganda machine was going full blast throughout the rearmament period. It was intended to cloak the concrete plans of the Nazi leaders to wage war and did do so notwithstanding that the Nazi foreign policy was known everywhere. The nature and extent of this propaganda is a matter of common knowledge. It is reviewed in part in the judgment of the IMT and need not be repeated here. But a reference to the findings there made and a resort to what is now common knowledge will show that until the very outbreak of war with Poland, Hitler was proclaiming his peaceful intentions and signing nonaggression pacts with some of the nations subsequently attacked.

In the present connection it is important to remember two things. First, the strict censorship which prevailed over all news sources. The German people were permitted to know only what Hitler wanted them to. The second is that the propaganda emanated from the head of the government of the nation which, regardless of its decidedly objectionable characteristics, was apparently a legitimate one. It is a historical fact that for Germans this was a consideration of importance. It of course cannot be utilized to excuse crime and from the viewpoint of peace-loving nations is highly regrettable. But it is nevertheless true and to

ignore it in the connection presently under consideration would be to abandon an objective approach to the question.

Throughout the rearmament years the period which the prosecution contends these defendants had the knowledge necessary to make their activities criminal, Hitler's propaganda apparently deceived the highest officials of foreign governments who were vitally interested and who presumably had in hand all the information obtained through elaborate intelligence service as well as statesmen experienced in judging foreign affairs. These facts are not only common knowledge but a part of the record in the trial before the IMT of which the prosecution claims this Tribunal must take judicial notice.

The prosecution introduced as a witness Dr. Paul Otto Schmidt,* who was the official interpreter of the German Foreign Office. It relies upon his testimony as furnishing evidence that the defendants had the requisite guilty knowledge. In presenting this witness, the able member of the prosecution staff who conducted his examination said this:

> "We don't offer this man as an expert on public opinion. It is a little more sophisticated than that, I think. He is offered as an expert on the conclusion which could be drawn from events which could be observed by all people in Germany, as he has said."

As to this type of testimony I feel obliged to put myself on record. If it can be regarded as meaning all that the prosecution seems to think it means, I would not under any circumstances deprive an accused of his liberty upon the strength of it. The hazards of attaching any probative value to such testimony are so obvious that they need not be stated.

But if the testimony should be accepted as evidence, I think it altogether insufficient to fasten the requisite guilty knowledge on the defendants. If it can be regarded as proving anything it is that there was ample ground for two views in Germany and elsewhere regarding the aggressive intentions of the Nazi regime. Schmidt himself, as close as he was to the Foreign Office and as experienced as he was in determining the significance of public events, testified that his opinion about the matter fluctuated. And even Schacht, according to the IMT, was deceived for a long time notwithstanding that he held a high position in the Nazi government and as the Tribunal said was "a central figure in the rearmament program."

It seems to be contended nevertheless, that the requisite guilty

* Schmidt's testimony is recorded in the mimeographed transcript, 6 February, 12 April 1948, pages 3317–3388; 5348–5367.

knowledge on the part of the defendants of the plans for aggressive war can be inferred from the inherent nature and extent of the Krupp firm's activities in the rearmament field, together with the fact that they or some of them occupied high positions in the economic life of Germany which necessarily brought them in contact with high government officials. No such inference is permissible. There is no evidence that any government official or anyone else informed any of the defendants that the government orders executed by the Krupp firm were in connection with concrete plans for aggressive war. Rearmament must look the same whether for aggression or defense. The fact that the defendants were engaged in the manufacture of weapons ordinarily employed in offensive warfare is not of determinative significance. Offensive warfare and aggressive war are not the same thing. Offensive weapons may be, and frequently are, employed by a nation in conducting a justifiable war.

Whether such knowledge can be inferred from the nature of the accused's activities plus the fact that he held a high political, or civil, or military position, or a high position in the financial, industrial, or economic life of Germany is clearly and conclusively indicated by the judgment of the IMT as to several of the defendants before it; notably, von Papen, Schacht, Doenitz, Frick, and Streicher, all of whom were acquitted of the charge of conspiracy on the ground they lacked the requisite knowledge of the Nazi plans to wage aggressive war. A full discussion showing the activities of these high ranking government officials is set forth in the opinion of the IMT and need not be repeated here. It is sufficient to say that in view of their exoneration with respect to the essential element of the offense now being considered, to say that private businessmen such as these defendants had the requisite guilty knowledge derived alone from the extent and nature of their activities in connection with the manufacture and sale of armament in private enterprise and the high positions some of them held in the economic life of the nation, would not only be an anomaly, it would be an inconsistency which would cast a doubt upon the objectivity of the trial and the purpose of this Tribunal to administer justice under the law.

The conclusion of the Tribunal that Doenitz was not privy to the conspiracy to wage aggressive war and not guilty of preparing and initiating such wars is pecularily pertinent. In 1935 he took command of the first U-boat flotilla commissioned since 1918 and became a commander of the submarine arm of the Wehrmacht in 1936. In these capacities he built and trained the German U-boat arm. The U-boats under his command were constructed by the firm of Krupp. To say that the professional naval officer who

commanded the U-boats and trained their crews for war did not know from the nature of his activities that he was engaged in preparing for a war of aggression but that those who built the vessels which he commanded should have known the essential facts from the nature of their activities in building them has no appeal to reason.

But as I read the brief, there is in fact no serious contention that the activities of the defendants in connection with the rearmament program were accompanied by guilty knowledge of the concrete plans of the Nazis to wage aggressive war. Indeed, the position of the prosecution acquits the defendants of such knowledge. This appears in the following passage:

> "Hitler's plans to wage aggressive war were first formulated in 1919. The program of the Nazi Party which formed the blueprint for the subsequent aggression against Germany's neighbors was drawn up in 1922. Before these plans could be realized, however, it was necessary that the Nazi Party gain control of Germany. This it did in 1933. Then commenced a long period of preparation for the wars which were to follow. It was necessary to throw off all restrictions on rearmament, to build up a powerful army, navy, and air force and to secure Germany's frontiers by remilitarizing the Rhineland and by building a West Wall before Germany could hope to be successful in its expansion plans. During this long and necessary period of preparation the plans of the Nazis were amorphous. Even Hitler himself did not know when and where he would strike. *During this entire critical period it was, therefore, impossible for anyone to have specific information as to the future intentions of the German Government. All that anyone could know was that the program of the Nazi Party called for the aggrandizement of Germany at the expense of other nations and that all necessary measures were being taken to realize this program.* [Emphasis supplied]
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> * * * * * * *
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> "Sometime in the spring of 1939 Hitler determined to move against Poland. His speech of 22 August 1939 to his commanders in chief made at one of the four secret meetings of the 'Nazi conspiracy' reveals his indecision as to his own program until that point. In May 1939 he informed only those people whose cooperation was necessary to the actual invasion of Poland—the heads of the armed forces and their staffs. He did not advise the industrialists, the statesmen, and the diplomats, whose cooperation had been necessary for the preparation which preceded his decision.

"In short, then, until May 1939, no one in Germany could have had knowledge of when and against whom Germany would wage her wars of aggression. Before that date, a few leaders of Germany had been advised as early as November 1937 that Germany was prepared to resort to the sword, if necessary, to gain her own ends. After that date, the military leaders knew of Germany's intention to invade Poland; *the rest of the German people learned of it with the invasion of Poland 3 months later. Only for the short space of three months can anyone be deemed to have had any special information as to Hitler's plans. These were the men who were Hitler's co-conspirators.* The period of preparation, however, for Germany's wars of aggression stretched back over a far longer period of time. During this period of time the defendants in this case rendered important services to the Nazi government. Their participation in Nazi preparations took place long before the plans to wage aggressive war were crystallized." [Emphasis supplied]

The foregoing, and particularly the underlined passages, is equivalent to an admission that the evidence was insufficient to show guilty knowledge on the part of the defendants under the rule adopted by the IMT and shows that the real contention in this case is that no more was required than knowledge of the national program of the Nazi Party and government. That the IMT rejected this view is beyond dispute.

Moreover, the foregoing passages from the brief, in my opinion, demonstrate what has already been said, namely, that notwithstanding the prosecution's disclaimer, the essential basis for this case is the Nazi program which also formed the basis of the conspiracy charge in the trial before the IMT. This, I venture to think, is demonstrated by an examination of that program.

As to its scope the American prosecutor, Mr. Justice Jackson said:

"The forms of this grand type of conspiracy are amorphous, the means opportunistic and neither can divert the law from getting at the substance of things."

As to the aggressive objective of the Nazis he concluded that "they were as secret as 'Mein Kampf' of which over 6,000,000 copies were published in Germany." That notorious book left no doubt about Hitler's determination to acquire land by force and no doubt about his purpose to coordinate the domestic and foreign programs.

With respect to the aggressive nature of the foreign policy of the Nazi government, the Tribunal said:*

"For the aggressive designs of the Nazi government were not accidents arising out of the immediate political situation in Europe and the world; they were a deliberate and essential part of Nazi foreign policy.

"From the beginning, the National Socialist movement claimed that its object was to unite the German people in the consciousness of their mission and destiny, based on inherent qualities of race, and under the guidance of the Fuehrer.

"For its achievement, two things were deemed to be essential: the disruption of the European order as it had existed since the Treaty of Versailles, and the creation of a Greater Germany beyond the frontiers of 1914. This necessarily involved the seizure of foreign territories.

"War was seen to be inevitable, or at the very least, highly probable, if these purposes were to be accomplished. The German people, therefore, with all their resources, were to be organized as a great political-military army, schooled to obey without question any policy decreed by the State. * * *

"In *Mein Kampf* Hitler had made this view quite plain. It must be remembered that *Mein Kampf* was no mere private diary in which the secret thoughts of Hitler were set down. Its contents were rather proclaimed from the housetops. It was used in the schools and universities, and among the Hitler Youth, in the SS and the SA, and among the German people generally, even down to the presentation of an official copy to all newly married people. By the year 1945 over 6½ million copies had been circulated. The general contents are well known. Over and over again Hitler asserted his belief in the necessity of force as the means of solving international problems, as in the following quotation:

" 'The soil on which we now live was not a gift bestowed by heaven on our forefathers. They had to conquer it by risking their lives. So also in the future, our people will not obtain territory, and therewith the means of existence, as a favor from any other people, but will have to win it by the power of a triumphant sword.'

"*Mein Kampf* contains many such passages, and the extolling of force as an instrument of foreign policy is openly proclaimed.

"The precise objectives of this policy of force are also set forth in detail."

On the strength of these facts the prosecution in the trial before

* Trial of Major War Criminals, op. cit., supra, pp. 186–187.

the IMT made the same contention made here. To have adopted it would have been to hold in effect that from 1933 the Nazi government was an open conspiracy and everyone who supported it was a conspirator. This would have to imply mass punishment. For obvious reasons any such ruling would have collided with the principle forbidding *ex post facto* laws; and the IMT accordingly restricted the concept of conspiracy to the limits fixed by the definition it gave of that offense. In so doing it put beyond doubt that significant support of the Nazi Party and government, coupled with knowledge of the openly proclaimed party program of aggrandizement at the expense of other nations was not of determinative significance on the question of participation in the criminal conspiracy contemplated by the London Charter as construed by the opinion.

Any other view, I venture to think, would involve all the dangers pointed out by the authorities cited, *supra.*

When the IMT restricted the scope of conspiracy to a concrete plan clearly outlined in its criminal purpose and not too far removed from the time of decision and action, it established, I think, the only workable basis for an indictment in a postwar criminal court applying ordinary rules of criminal law, and the only possible ruling having that certainty which a standard to guide men in their conduct must have to be of any practical value.

There remains for discussion the decision as to count one charging the planning, preparation, initiation, and waging of the twelve specific wars and invasions mentioned.

As already pointed out, the IMT seems to have regarded the "planning, preparation, initiation, and waging" of aggressive wars as constituting two separate offenses, one consisting of the acts of "planning, preparation, and initiation", and the other of "waging" aggressive war. To repeat, the offense of planning, preparation, and initiation of aggressive wars is, in practical effect, the same as the conspiracy. Here the determinative question is whether with the requisite guilty knowledge the evidence was sufficient to show that the defendants were guilty of participating in the planning, preparation, and initiation of the particular wars charged in the indictment. What has already been said in connection with the conspiracy charge is a sufficient answer to this question.

This leaves for consideration the charge of waging aggressive war. Little space is devoted in the brief to this question.

The activities of the defendants insofar as they related to the waging of war continued at all times to be confined to the performance of their duties as employees of the firm engaged in the manufacture and sale of armament upon government orders and

the participation by some of them as members of the economic associations existing in Germany at the time.

The IMT refrained, wisely perhaps, from undertaking to formulate a specific rule by which to determine what activities would constitute waging aggressive war, but by its decision with respect to several of the defendants it conclusively demonstrated its opinion as to what activities would not constitute that offense. A reference to the verdict as to Sauckel and Speer will suffice to show this. From March 1942 onward, Sauckel was the head of the so-called slave-labor program of the Nazi regime. In administering it he recruited 5,000,000 foreign workers to work in Germany. These he allocated to employers engaged in war production. That his program was a cornerstone of the Nazi war effort cannot be successfully denied. It extended over a period of at least 3 years. That, in conducting it, Sauckel rendered invaluable service to the war effort is likewise beyond dispute. Yet the Tribunal said that the evidence did not satisfy them that Sauckel was sufficiently connected with the common plan to wage aggressive war or sufficiently involved in planning and waging aggressive wars to allow the Tribunal to convict him on counts one and two. Considering the nature and duration of Sauckel's activities and their importance to the war effort, this conclusion to my mind can mean only that the Tribunal felt that activities such as those in which Sauckel engaged did not amount to waging war as that term is used in the London Charter.

The decision as to Speer is directly in point and even more decisive against the contention of the prosecution in the present case. Speer was acquitted of all charges of crimes against the peace. He joined the Nazi Party in 1932 and was a close personal confidant of Hitler from 1934 until the end of the war. In that year he was made a department head in the German Labor Front and the official in charge of a capital construction on the staff of a deputy to the Fuehrer, a position which he held through 1941. On 15 February 1942, upon the death of Fritz Todt, Speer was appointed chief of the Organization Todt and Reich Minister for Armament and Munitions (after September 1943 for Armament and War Production). These positions were supplemented by his appointments in March and April 1942 as General Plenipotentiary for Armament and as a member of the Central Planning Board, both within the Four Year Plan. He was a member of the Reichstag from 1941 until the end of the war.

The decision acquitting Speer of crimes against the peace charged in counts one and two of the indictment is in a single paragraph. It is as follows:*

* Ibid., pp. 330–331.

"The Tribunal is of the opinion that Speer's activities do not amount to initiating, planning, or preparing wars of aggression, or of conspiring to that end. He became head of the armament industry well after all the wars had been commenced and were under way. His activities in charge of German armament production were in aid of the war effort in the same way as other productive enterprises aid in the waging of a war; but the Tribunal is not prepared to find that such activities involve engaging in the common plan to wage aggressive war as charged under count one or waging aggressive war as charged under count two."

The prosecution contends that the acquittal of Speer on the charge of waging war was "predicated not on the character of his activities but upon the time of their commencement." The importance of the question thus raised in its relation to the crucial question under count one requires its careful examination.

The nature and extent of Speer's activities as disclosed by the judgment were, in part, as follows:*

"As Reich Minister for Armaments and Munitions and General Plenipotentiary for Armaments under the Four Year Plan, Speer had extensive authority over production. His original authority was over construction and production of arms for the OKW. This was progressively expanded to include naval armaments, civilian production, and finally on 1 August 1944, air armament. As the dominant member of the Central Planning Board, which had supreme authority for the scheduling of German production and the allocation and development of raw materials, Speer took the position that the board had authority to instruct Sauckel to provide laborers for industries under its control and succeeded in sustaining this position over the objection of Sauckel. The practice was developed under which Speer transmitted to Sauckel an estimate of the total number of workers needed. Sauckel obtained the labor and allocated it to the various industries in accordance with instructions supplied by Speer."

The view of the prosecution as to the rationale of the decision is unsound, in my opinion, for the following reasons:

First—If the ground for the acquittal of Speer of *all* charges under counts one and two had been the fact that he did not become head of the industry until well after all the wars were under way it would have been an easy matter for the Tribunal to have said so and stopped there. If the contention of the prosecution

* Ibid., p. 331.

is valid, then the statement contained in the third sentence as to the relation of productive enterprise to the offense charged was not only irrelevant to the issue decided and mere surplusage but was absolutely meaningless.

Second—It will be observed that as was true in the case of Doenitz, as well as others, the Tribunal in Speer's case expressed two separate conclusions, one with respect to the offense of *initiating, planning, and preparing* wars of aggression or *conspiring* to that end, and the other with respect to engaging in a common plan to wage war as charged in count one or waging aggressive war as charged in count two.

The first conclusion manifestly predicates acts prior to the outbreak of hostilities and the second acts subsequent to that event. That this is true is also shown by the decision in the case of Doenitz.

The first conclusion as to Speer is expressed in the first sentence of the quoted language. The second conclusion is expressed in the third sentence. The basis for the first conclusion that Speer was not guilty of acts "in planning, or preparing, or initiating wars of aggression or conspiring to that end" is to be found in the second sentence. It is that Speer did not become head of armament industry until well after all of the wars had been commenced and were under way.

So regarded this is obviously a logical explanation of the decision that Speer was not guilty of preparing, planning, or initiating war as distinguished from waging war, for one whose activities did not begin until after the period of planning, preparation, and initiation was over could not well be found guilty of that offense.

But manifestly the Tribunal did not regard this as a logical explanation of the decision as to the offense of waging war and hence another had to be and was given. It is to be found in the same sentence as that in which the conclusion is expressed, namely the third. It is that, "His activities in charge of German armament were in aid of the war effort in the same way that other productive enterprises aid in waging war," and hence did not involve either the offense of waging war or conspiring to that end as defined by the Charter.

Having regard to the context as well as to the structure of the sentences and of the paragraph in which they are found, the foregoing is not only a reasonable interpretation whereby meaning can be ascribed to all of the language used, but it is the only one under which the reference to productive enterprise in its relation to the criminal offense of waging war can be given any meaning at all.

Moreover, to hold with the contrary view is to have the Tribunal in effect implying that any productive enterprise in aid of an obviously aggressive war is criminal, provided such activity does not begin too long after the outbreak of hostilities and extends over sufficient length of time. If this is true of productive enterprise, it must also be true of every other activity in aid of war effort. What period of delay would suffice? How is that question to be determined; by whom and when? Must every individual called upon to aid his country in time of war decide at his peril how long he must wait after war begins and how long he will serve?

Third—The facts with respect to Speer's activities render the conclusion embodied in the prosecution's contention unreasonable when viewed in the light of their importance to the war effort. It is pertinent to note that Speer was appointed Reich Minister for Armament and Munitions about 7 months before the German armed forces reached Stalingrad and about 11 months before their disastrous defeat in that decisive battle. His activities extended over a period of more than 3 years, or about one half of the entire war period. To say that merely because they did not cover a longer period of time, they did not amount to sufficient participation is to deny the importance of armament production to the waging of war. It is to say, in effect, that the war could have been waged as well during the last 3 years without the centralized and organized control of armament production by Speer during that period. This does not meet the test of reason.

If it be conceded that the duration of a particular activity is proper to be considered in determining whether the contribution to waging war was a substantial one, it is submitted that there can be no doubt about the fact that a period of 3 years meets the requirement in that respect. If this is true, the only explanation for the acquittal of Speer under counts one and two is that the Tribunal felt that, conceding the requisite duration, the nature of his activities did not constitute waging war within the meaning of the language of the Charter and that, it is submitted, is exactly what the Tribunal made plain when, in disposing of this case, they said in effect that mere productive enterprise in aid of war effort does not constitute waging war.

In its relation to the defendants in the present case the acquittal of Speer of the offense of waging war is peculiarly significant, for he was the government representative who exercised direct supervision over their activities as he did over those of all industrialists engaged in the war effort. He was the official head of the whole industrial program for the production of armaments.

It would be unprecedented to hold that the activities of private citizens in the production of armament constituted waging of war when those of the official supervising those activities did not constitute that offense. So far as I am able to perceive, there is no reasonable basis for making such a distinction.

The prosecution concedes that in the individual crime of aggression a criminal intent must be shown. This means, I apprehend, that activities relied upon as constituting waging war must have been pursued with knowledge of the criminal objective and with the intention of aiding in its accomplishment. Apparently, by way of showing this essential element of the offense, the prosecution introduced in evidence the affidavits of two Krupp officials, Bach and Schroeder. Instead of proving the required element I think these two affidavits tend to refute it.

Schroeder, after deposing that a number of Krupp officials who formed a dinner group each day were all of the opinion that Hitler was responsible for the war and that they all had hoped that Poland would accept Germany's demands without a war after Germany had signed a nonaggression pact, stated:

> "Loeser as well as Pfirsch told me after the outbreak of war that they expected Germany to lose the war and that they hoped Hitler would end the war, because we could not hope to win, once the war production of the United States of America got seriously started. My colleagues, who shared the table, did not believe that Germany at the time was armed for war."

Referring to the same dinner group, Bach said, in his affidavit:

> "The various gentlemen in the group felt that Poland had been attacked without justification by Germany. We did not believe that Polish bands had crossed the German border and fired on German people. This opinion was strengthened when it became known that a considerable number of German troops had marched to the German-Polish border already several days before 1 September 1939. We felt very uncomfortable about this attack, because we felt that it would lead to a world war, in which Germany would be the loser, and that we would suffer personal and property losses, and that in case of war the Krupp buildings would be bombed immediately. We had hoped that a compromise would be reached after the German attack and that the German troops would be withdrawn, after the German demands against Poland were satisfied. Especially we hoped this after the successful conquest of Poland by Germany.
>
> "I remember quite distinctly that Houdremont's opinion were exactly the same as mine, and I cannot recall any notable divergence in the opinions of the other members of the dinner group."

In relation to the offense of waging war, the mere fact, without more, that those mentioned thought Hitler was responsible for the attack on Poland is not of determinative significance under the facts of this case. Granted the premise that aggressive war was a crime, I can understand how a private citizen can be held indictable if he was privy to the plans which led his country into a war that he knew would be a war of aggression and aided in the execution of those plans. But once the war has begun, a different case is presented insofar as crimes against the peace are concerned. I do not believe there was or is any law requiring that a citizen not privy to the prewar plans, but who after the war has begun is called upon to aid in the war effort, must determine in advance and at his peril whether the war is a justifiable one and refuse his aid if he concludes that it was not. A contrary view would have no support in the usage and customs of nations and certainly none in the experience of the peoples of all countries.

In this connection it should be said, however, that in performing such service as he is called upon to render, a citizen is bound by the laws and customs of war and if he violates them he is subject to indictment and punishment on that ground.

Moreover, if the foregoing affidavits be accepted at face value, it seems to me they tend to negative rather than to show that the defendants' activities were pursued with the intention of accomplishing the objectives of the Nazi plans to wage aggressive war. It hardly can be said, I think, that one intends to aid in the accomplishment of the objective of an initiated war when he believes there is no possibility of it being won.

As already emphasized, the defendants were private citizens and noncombatants. None of them held, either before or during the war, any position of authority comparable in importance to that of either Speer or Sauckel; nor in any permissible view of the evidence can it fairly be said that they collaborated with those conducting the war to the extent that Sauckel and Speer did. None of them had any voice in the policies which led their nation into aggressive war; nor were any of them privies to that policy. None had any control over the conduct of the war or over any of the armed forces; nor were any of them parties to the plans pursuant to which the wars were waged and so far as appears, none of them had any knowledge of such plans. To repeat, their activities in connection with the war consisted primarily in the performance of their duties as employees of a private enterprise engaged for profit in the manufacture and sale of armament, together with membership by some of them in the economic and industrial associations organized to aid in the war effort.

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To hold that such activities, constitute waging war, I venture to think, would be a violation of the principle forbidding *ex post facto* law.

The IMT held that independent of the London Charter the waging of aggressive war was a crime under international law. This holding was based on treaties and usages and customs of nations culminating in the Briand-Kellogg Pact. Accepting this instrument "as expressing and defining for more accurate reference the principle of law already existing" as the IMT said was the case, in determining what activities were intended to constitute waging war, the language must be interpreted in the light of the existing state of international thought upon the subject and the objects sought to be accomplished thereby. Whatever may be the view of experts in the field of criminology, in the eyes of lawmakers and laymen the object of punishment is to deter others from crime. In this particular instance, I apprehend, the object sought to be accomplished by making aggressive war a crime was to deter those capable of initiating that type of war from doing so. The language used in the Pact is to the effect that the signatories renounced war *as a matter of national policy.* Considered in the light of the complexity of the whole problem, the usage and custom which led to the Treaty and the object sought to be accomplished, it seems to me to be a reasonable view that the language used necessarily implies that only those responsible for a policy leading to initiation and waging of aggressive war and those privy to such a policy together with those who, with a criminal intent actively conduct the hostilities or collaborate therein, are criminally liable in the event of war in violation of the Pact: for, if the threat of punishment deters these, there will be no war and the object of the law will have been accomplished. Upon the other hand, if the threat to the policymakers, leaders, and their collaborators proves of no avail, is it reasonable to conclude that the law contemplates that the threat of postwar punishment by a court exercising criminal jurisdiction held out to the mass of the people will prove effective? To answer this in the affirmative, it seems to me, would be to ignore everyday experience and indulge in purely theoretical rather than practical thought.

Moreover, to extend criminal liability beyond the leaders and policymakers and their privies to private citizens called upon to aid the war effort necessarily embodies the concept of mass punishment. To say that private citizens who participate to a substantial degree in the war effort after the policymakers and leaders have plunged the nation into war are subject to indictment in a criminal court, notwithstanding they had no voice or

control in the conduct of the war or its initiation, is to say that there is no practical limit to the number who can be held responsible where the conflict is what is known as total war. This concept of mass punishment, in my opinion, is so inherently obnoxious, both from a legal and moral standpoint, that it would be an unreasonable construction to say that it was contemplated by any system of law founded upon justice. To enforce it would be an execution of power rather than an exercise of judicial authority. It would be to announce a rule which provides no practicable standard for the guidance of those bound by it. This would be of no service to the cause of justice under the law. Where would the line of demarcation be? Every private citizen called upon to contribute to the war effort would be obliged to determine in advance and at his peril whether he could do so without involving himself in criminal liability; whether the war in which he is called upon to aid his country is an aggressive war or lawful war. If he must determine this question, what standard is he to use in determining when and to what extent he can safely participate? Has that standard been so far fixed by international law that those not privy to a policy leading to aggressive war or the plans under which it is being conducted can reach the necessary decision with reasonable certainty?

The argument before the IMT that to hold aggressive war a crime was contrary to the principle of *nulla poena sine lege* proceeded in large part upon the theory that to hold men retroactively responsible is unjust because the accused had had no advance notice that the acts they were about to do, were to be punished as crimes. Otherwise, they would presumably not have done them.

In holding this argument to be unsound the IMT stresses the fact that the *leaders* of the Nazi government did have notice that their acts would be punished. "Occupying the positions they did in the government of Germany," said the Tribunal, "the defendants, or at least some of them, must have known of the treaties signed by Germany, outlawing the recourse to war for the settlement of international disputes; they must have known that they were acting in defiance of all international law, when in complete deliberation they carried out their designs of invasion and aggression. On this view of the case alone, it would appear that the maxim has no application to the present facts."

See also, "The Nuernberg Trial and Aggressive War", by Sheldon Glueck, Harvard Law Review, February 1946; pages 440 and 441.

In this connection it is somewhat significant that the position of the American Chief Prosecutor in the IMT trial was that the

generals and admirals were indicted, not because they conducted the war but because they *led their country into war.*

See transcript 21 November, PM, page 48; 1 "Trial of Major War Criminals" British Reprint, 84; Opening Speeches (H.M. Stationery Office) 43–44; Speech by Colonel Telford Taylor, transcript 202 (4 Jan.), "Trial of Major War Criminals" 302–39; transcript 2246 (7 Jan.), "Trial of Major War Criminals" 37–39.

Referring to a criticism in the United States Army Journal to the effect that the prosecution was seeking to establish "a principle of international law under which professional military leaders were subject to conviction as war criminals because of service in high commands or on general staffs, Justice Jackson pointed out that, in his opening statement, he had made it clear that German militarists were not being charged with having served their country, but with mastering it and driving it to war; not with fighting a war but with promoting one. They were not being tried because they belonged to a profession, but for the crime of planning an aggressive war." See United Nations War Crimes Commission, Press News Summary No. 4, issue of 19 December 1945.

It will be observed that emphasis is everywhere upon the leaders of the Nazi government; those responsible for leading their country into war and who, by virtue of their position in the government, must have known that aggressive war had been outlawed by international law.

The decision of the IMT as to Doenitz seems to be unique but it is peculiarly pertinent upon the determinative significance to be attached to a position of leadership. He was not only acquitted on the conspiracy charge but also on the charge of participation in the preparation and initiation of the aggressive wars. He was convicted only of waging war. The rationale of the decision, I think, is as follows: Although during the prewar years he trained the U-boat arm of the German Navy and thus rendered a direct and invaluable service to the preparation of the wars which followed, he was then merely "a line officer performing strictly tactical duties," and was not privy to the concrete plans which led to the initiation of the series of wars. But upon the outbreak of war the nature of Doenitz' duties changed. He was no longer a mere officer of the line performing only tactical duties but was solely in charge of the direction and operation of submarine warfare which proved one of the most effective branches of the German armed forces. The naval command reserved for itself only the decision as to the number of submarines in each area. How, when, and where they were to be used was determined in large measure by Doenitz. From January 1943,

when he was appointed commander in chief of the Germany Navy, he was consulted almost continuously by Hitler in connection with naval problems.

It seems, therefore, that the change from a line officer performing strictly tactical duties to a position of leadership involving much more discretion and responsibility with respect to aggressive action was the determinative factor.

Finally, it is perhaps worth repeating that primarily my disagreement with the prosecution stems from the asserted legal proposition hereinabove quoted and which forms the major premise of the case under both counts one and four. Reduced to its essentials it is, as has been seen, that one who knowingly participates in developing, furthering or executing a national policy of aggrandizement contemplating the use of force against other nations is guilty of a crime against the peace.

As already indicated, I think this is nothing more or less than the rejected concept of the prosecution in the case before the IMT reduced to a legal formula. If anything, it is an expansion of that theory. Certainly it is a broader concept than that of participation in the initiation and waging aggressive war and as a basis for criminal conspiracy is obviously a concept far different from a concrete plan to wage aggressive war clearly outlined in its criminal purpose and not too remote from the time of action.

It is, of course, recognized that any nation pursuing a national policy of aggrandizement by force is a menace to peace about which something ought to be done. Preventive action by an association of peace-loving nations furnishes one among other practicable remedies. But a tribunal whose jurisdiction is limited to administering the ordinary rules of criminal law is not, in my opinion, designed to cope with the problems presented by a rule so broad in its sweep and so indefinite in its terms.

It is, of course, not meant that I think that the trial and punishment of those responsible for aggressive war is altogether beyond the power of such a court. Upon the contrary, I have no doubt that the judgment of the IMT dealing with aggressive war and conspiracy provides a sound and workable guide for a court of criminal law and also a clear and unmistakable warning that those who commit such crimes can and will be punished according to legal principle.

There seems to me to be another objection to one aspect of the asserted rule which is so fundamental in nature that reference to it is justified. I refer to that relating to furthering and developing as distinguished from actually executing a national policy of aggrandizement by force. This aspect of the rule is susceptible to the construction that it extends to and regulates a

wide variety of activities including those of private citizens for an indefinite period prior to the outbreak of any war, and in fact even though there is no war and no definite plan for one. It cannot be doubted that the obvious intention is praiseworthy. There could hardly be anything more desirable than that those, together with their privies, who plan a policy of force directed against other nations be adequately dealt with before they can embark upon the execution of this greatest of all crimes. But the question is whether the rule asserted provides a permissible remedy under the system now prevailing. If it be contemplated as seems to be the case, that the participants in furthering and developing a national policy of aggrandizement by force be indicted and tried in advance of the outbreak of war, where is there to be found a court or tribunal having the requisite jurisdiction or where the authority is prevailing law to create one? The time may come when international criminal law supported by a court with authority to administer and enforce it will reach that far and that quickly into the internal affairs of nations. But desirable though this may be, that time, in my opinion, has not arrived yet. Nor do I think that an *ad hoc* military tribunal exercising a limited jurisdiction delegated to it by four nations only is the appropriate body to establish a rule that so far affects the sovereignty of nations or that if it attempted to do so the result would be accepted by them.

In respectfully differing with the prosecution as to the legal premise for its case, I have had in mind the limitations upon the functions of a judicial tribunal. This was never better expressed than by an eminent jurist of the United States who afterwards became one of the most renowned members of the Supreme Court of that nation. He said this:

> "Their general duty is not to change, but to work out, the principles already sanctioned by the practice of the past. No one supposes that a judge is at liberty to decide with sole reference even to his strongest convictions of policy and right. His duty in general is to develop the principles which he finds, with such consistency as he may be able to attain." (Holmes, C.J., in Stack *vs.* N.Y. etc. R. Co., 177 Mass. 155, 158, 58 N.E. 686, 687, 52 L.R.A. 328, 83 Am. St. Rep. 269.)

In conclusion it should be said there has been no intention to question the sincerity of the view of the prosecution that this case involves no *ex post facto* law but, upon the contrary, is soundly based upon international law as it existed at the time in question. No less authority than Mr. Henry L. Stimson, one of the greatest American statesmen and lawyers, has regretted

that the IMT gave a restricted construction to the provisions of the London Charter relating to the crime of conspiracy, but with due deference to all concerned, I have felt bound to disagree.

[Signed] HU C. ANDERSON

Presiding Judge

7 July 1948

I. Special Concurring Opinion of Judge Wilkins on the Dismissal of the Charges of Aggressive War

The Tribunal, on 5 April 1948, sustained a joint motion filed on behalf of all the defendants on 12 March 1948, after the prosecution had rested its case-in-chief, for a judgment of not guilty on counts one and four of the indictment. On 11 June 1948 the Tribunal filed an opinion with respect to this matter. At that time I stated that I reserved the right to file a special concurring opinion at the time the judgment is rendered. Presiding Judge Anderson filed a concurring opinion on 7 July 1948.

The accusation to have committed a crime against peace is the gravest that can be raised against any individual. It transcends any other crime, as far as regards the sinister character of the criminal intent, the amount, magnitude, and duration of harm and evil which it necessarily involves and the disregard for the sufferings of persons and entire nations, including the wrongdoer's own fellow citizens and own country.

The defendants in this case, all high officials of the Krupp organization, have been accused of this offense, as recognized in Control Council Law No. 10. It is not necessary to belabor the point that the Nazi wars of aggression have brought disastrous consequences to millions of innocent persons and a large number of nations. The criminal character of these acts has been established by a competent International Tribunal.

Having to deal with a matter of such gravity, I feel in conscience bound to put forth, as briefly as possible, the reasons which have prompted me to concur in the ruling of this Tribunal, dismissing counts one and four of the indictment.

The principles of criminal liability applicable with respect to the crime against peace are the same elementary and basic principles applicable generally with respect to other crimes. The basic principle is that criminal guilt requires two essential elements, namely, action constituting participation in the crime, and criminal intent. To establish the requisite participation there must be

not merely nominal, but substantial participation in and responsibility for activities vital to building up the power of a country to wage war. To establish the requisite criminal intent, it seems necessary to show knowledge that the military power would be used in a manner which, in the words of the Kellogg [Briand] Pact, includes war as an "instrument of policy."

In view of the factual situation, the prosecution necessarily, in presenting its case, submitted evidence dealing with activities of Gustav Krupp and the Krupp firm, in an effort to connect up the defendants with substantial participation with these activities in such a manner that guilty knowledge could also be imputed to them.

Gustav Krupp is not on trial in the present case nor has he had his day in court. Neither is the Krupp firm on trial except as it may appear as the *alter ego* of defendant Alfried Krupp after he became the sole owner of the Krupp family enterprise by virtue of Hitler's Lex Krupp in December 1943. Yet, as said before, in view of the circumstances of the present case, evidence concerning Gustav Krupp and the Krupp firm was admitted by the Tribunal; and the voluminous amount of credible evidence presented by the prosecution, the major part of which comes from the files of the Krupp firm, is so convincing and so compelling that I must state that the prosecution built up a strong *prima facie* case, as far as the implication of Gustav Krupp and the Krupp firm is concerned.

I have also no hesitancy in stating that in my opinion the vast amount of credible evidence justifies the conclusion that the growth and expansion of the Krupp firm at the expense of industrial plants in foreign countries were uppermost in the minds of these defendants throughout the war years. This huge octopus, the Krupp firm, with its body at Essen, swiftly unfolded one of its tentacles behind each new aggressive push of the Wehrmacht and sucked back into Germany much that could be of value to Germany's war effort and to the Krupp firm in particular. It is abundantly clear from the credible evidence that those directing the Krupp firm during the war years were motivated by one main desire—that upon the successful termination of the war for Germany, the Krupp concern would be firmly established with permanent plants in the conquered territories and even beyond the seas. This was more than a dream. It was nearing completion with each successful thrust of the Wehrmacht. That this growth and expansion on the part of the Krupp firm was due in large measure to the favored position which it held with Hitler there can be little doubt. The close relationship between the Krupp firm on the one hand and the Reich government, particu-

larly the Army and Navy High Commands on the other hand, amounted to a veritable alliance. The wartime activities of the Krupp enterprises were based, in part, upon spoliation of other countries and on exploitation and maltreatment of large masses of forced foreign labor.

In my opinion, the evidence has shown that the basic policy of the Krupp concern which proved to be of such substantial assistance to Hitler's aggressive projects, was established immediately after the First War, that it was carried on during the Weimar Republic, and that it was greatly intensified during those first years of the Hitler regime when none of the present defendants as yet occupied a position of policymaking responsibility in the Krupp combine. This was a decisive consideration for this Tribunal in dismissing counts one and four of the indictment. For, the Tribunal found it appropriate to adopt a conservative concept of "common plan" or "conspiracy" as contained in Control Council Law No. 10.

Under a widely accepted, less conservative theory of conspiracy, those who, with knowledge of the criminal plan, enter into the common enterprise at a later date, become responsible for everything that was done under the conspiracy previously started. Hence, had the Tribunal adopted that doctrine, it would have had to determine whether Gustav Krupp had the requisite state of mind, and whether, when the defendants reached highly responsible positions, they become parties to his plans, or, in other words, his coconspirators. For, I am convinced that when the defendants reached their top positions within the Krupp concern, they knew the basic policy of the concern and of Gustav Krupp.

As said before, the Tribunal did not adopt this line; furthermore, the Tribunal, acting as it did in a comparatively new field of international law, wished conservatively to restrict the individual crime against peace to such persons, who, individually, played a substantial part in the planning, preparation, initiation, or waging of aggressive war. But until well into the late 30's the Krupp officials who held the highest positions in the Krupp enterprises, were persons other than the present defendants. And the man who stood at the apex of Krupp's huge industrial combine until 1943 was Gustav Krupp. At that time, all the wars of aggression had started and were well under way. In order to be guilty of crimes against peace, a person must be shown to have acted in a manner which actually and substantially influenced the course of international events. Giving the defendants the benefit of what may be called a very slight doubt, and although the evidence with respect to some of them was extraordinarily strong, I concurred that, in view of Gustav Krupp's overriding authority

in the Krupp enterprises, the extent of the actual influence of the present defendants was not as substantial as to warrant finding them guilty of crimes against peace.

The difference between the situation of Gustav Krupp and that of the defendants is such that my conclusion can perhaps best be understood by a brief discussion of some of the evidence.

Immediately upon the conclusion of the First World War, the Krupp firm, under the leadership of Gustav Krupp, vested its future in the rebirth of German militarism. The provisions of the Versailles Treaty of 1919 were designed to put an end to such armament activities. There can be no doubt, as pointed out in the Opinion of Judge Anderson, that Gustav Krupp, and his then associates, formulated and, executed a plan to violate the disarmament provisions of the Treaty. It is shown beyond doubt that in many respects Gustav Krupp practiced a gross deception upon the Inter-Allied Control Commission which was set up to supervise compliance with these provisions. The proof is also clear that the Krupp concern secretly collaborated with the German Government and with the army and navy in evading the restrictions of the Treaty. It is interesting to observe, in this connection, that Joseph Wirth, Chancellor of the Weimar Republic in 1921 and 1922, wrote a letter to Gustav Krupp in 1940, in which the following appears (*NIK–8575, Pros. Ex. 132*):*

> "* * * I recall with satisfaction the years of 1920 till 1923, when together with Director Dr. Wiedtfeld both of us were able to lay new foundations for the development of the German armament technique through your great and most significant firm.
>
> "Mr. Reich President von Hindenburg, as is well known, had been informed of it. His reaction also was very creditable, though nothing of this has as yet been disclosed in public.
>
> "I also write down these lines to add them to my files, which already contain the well known letter of Dr. Wiedtfeld of 1921, stating that your most respected firm was assured of 10 years service for the government on account of my initiative as the Reich Chancellor and Reich Minister of Finance, by releasing considerable means of the Reich for the preservation of German armament technique.
>
> "I repeat this matter in a purely personal and confidential way without thinking of making these lines available to the public. The fact being that approximately 2 years ago, the Reich government made it known, through the Ambassador in Paris, that any publication about previous preparations for the recovery of national freedom would be discouraged."

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* Reproduced above in section B 1.

In defiance of the Versailles Treaty, the Krupp concern preserved its armament potential and carried on designing and development work in all fields of armament. From 1919 to 1933, working in secrecy but in close cooperation with the military leaders in Germany, it designed, constructed, and tested submarines, tanks, and guns. What these activities prior to 1933 (at a time when the world was condemning aggressive war as criminal) meant when Hitler came to power is well described in a memorandum by the Krupp directors in 1938, which stated (*NI–1284, Pros. Ex. 125*) :[1]

> "When, in 1933 we were again called upon to manufacture war material in large quantities, we were immediately ready to do so, and in addition we were able to let other firms profit from our experiences, safeguarded and newly acquired by the use of our capital. Workshops which had not been in operation for years or had only been operating on an insufficient scale were again put into operation and after a short preliminary stage were working at capacity. Recognitions for holding out and rapidly going to work fill us with pride. They prove that the sacrifices of the past safeguarded great values for our people.
>
> "After having again abandoned the production of all objects which were only meant to keep our personnel and our plants occupied, our production program today is a carefully balanced whole in which peace and war production are organically united."

The secret history of the German Navy clearly demonstrates what the activities of the Krupp concern prior to 1933 in respect to submarine design, research, and development outside of Germany meant, for it credited such projects with having made possible the "astonishing facts" that (*C–156, Pros. Ex. 139*) :[2]

> "After the carrying out of the armistice conditions and the signing of the Versailles Treaty, any practical continuation of the work in the field of the submarine arm was impossible in Germany. In spite of that, it was possible to put the first submarine into service only 3½ months after the restoration of military sovereignty declared on 16 March 1935, that is on 29 June [1935], and then at intervals of about 8 days to put new submarines continuously into service, so that on 1 October 1935, twelve submarines with fully trained personnel were in service.

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[1] Ibid.
[2] Ibid.

"On 7 March 1936, during the critical moment of the occupation of the demilitarized zone on the western border, 18 submarines in service were available, 17 of which had already passed the test period and in case of emergency they could have been employed without difficulties on the French coast up to the Gironde."

The reference is to Hitler's spectacular march into the Rhineland on 7 March 1936 which will be discussed later.

The reasons for these activities of the Krupp concern are clearly indicated in an article written by Gustav Krupp in 1941 [1942] and published in the Krupp house organ. He wrote (*D–94, Pros. Ex. 124*) :*

"At the time (1919), the situation appeared almost hopeless. At first, it appeared even more desperate if one was not—as I was myself—firmly convinced that 'Versailles' did not mean a final conclusion. Everything within me—as within many other Germans—revolted against the idea that the German people would remain enslaved forever. I knew German history only too well, and just out of my experiences in the rest of the world I believed to know the German man; therefore, I never doubted that—although for the time being, all indications were against it—one day a change would come. How, I did not know, and also did not ask, but I believed in it. With this knowledge, however—and today I may speak about these things, and for the first time I am doing this extensively and publicly—as responsible head of the Krupp works, consequences of the greatest importance had to be taken. If Germany should ever be reborn, if it should shake off the chains of Versailles one day, the Krupp concern had to be prepared again. The machines were destroyed, the tools were smashed, but the men remained; the men in the construction offices and the workshops, who in happy cooperation had brought the construction of guns to its last perfection. Their skill has to be maintained by all means, also their vast funds of knowledge and experience. The decisions I had to make at that time were the most difficult ones in my life. I wanted and had to maintain Krupp in spite of all opposition, as an armament plant—although for the distant future."

By the "chains of Versailles," Gustav Krupp obviously meant not merely the restrictions on the manufacture of armaments but the territorial order of Europe which the peace Treaty had prescribed. Considered in the light of Gustav Krupp's subsequent

* Ibid.

support of Hitler and the Nazi Party and their aims, manifestly Gustav Krupp, like Hitler, was dedicated to overthrowing the restrictions of the Versailles Treaty as a prerequisite to the territorial aggrandizement of Germany by force. This view seems implicit also in a document prepared for Gustav Krupp in 1940 by a Krupp official and submitted to the High Command of the German armed forces. Both the reasons for his actions in the period prior to 1933 and the importance of the activities of the Krupp concern during this time to Germany's preparations for aggressive war are plainly shown (*NI–764, Pros. Ex. 467*)[1]—

> "The following details * * * are to provide the justification for the increase in sales prices which the firm Krupp needs for its manufacture * * *."
>
> "Without government orders and merely out of the conviction that one day Germany must again fight to rise, the Krupp firm has, from the year 1918 to 1933, maintained employees and workshops and preserved their experience in the manufacture of war materials at their own cost although great damage was done to their workshops through the Versailles Treaty, and employees and machines had in part to be compulsorily dispersed. The conversion of the workshops to peacetime production involved losses, and as at the same time, the basic plans of a reconversion to war production was retained, a heterogeneous program was the result, the economic outcome of which was necessarily of little value; but only this procedure made it possible at the beginning of the rearmament period to produce straight away heavy artillery, armor plates, tanks, and such like in large quantities. The material losses which the Krupp firm is bearing amount to several hundred million marks."

How systematic the early activities of the Krupp concern were and how much they helped Hitler is even more strikingly demonstrated by a document which was compiled in 1941 and recounts the history of the Krupp A. K. department for the period from November 1918 to 1933. The "concluding remarks" state (*NIK–9041, Pros. Ex. 146*):[2]

> "The foregoing remarks showed us only weak attempts in the field of gun design for the first years after the World War which aimed at salvaging from the collapse what could be salvaged. Beginning with the middle of the twenties, however, we gradually note the aspiration which becomes more and more pronounced to rebuild, and also to embark on fresh projects. It is true that the guns then developed can only be classed as

[1] Ibid.
[2] Ibid.

forerunners; they made an appreciable contribution, however, towards clarifying opinions and requirements thereby making it possible to meet them, and thus they have entirely served their purpose. They were followed very shortly afterward by the weapons which were finally adopted. Of the guns which were being used in 1939–1941 the most important ones were already fully developed in 1933; the Moerser was almost completed and the light field gun 18 also was ready for use. For the equipment which was tested in secrecy the Army Ordnance Office and the industry stood ready to take up mass production, upon order from the Fuehrer."

Gustav Krupp may have considered his decision in 1919 to violate the Versailles Treaty and his subsequent efforts to rearm Germany a good business risk. Assuming that this was so, and that his expectation of ultimate profit was the basis for his "conviction that one day Germany must again fight to rise," it would merely make more indefensible his activities. Only three of the defendants in this case were connected with the firm in 1919 and 1920, and none of them occupied a sufficiently important position to justify charging them with the responsibility for decisions taken at that time. Equally, these three defendants and three or four additional defendants who joined the firm prior to 1933 did not during that time, occupy positions of top responsibility.

In 1933 Gustav Krupp threw all the weight of his prestige and position behind the Nazi Party, which was committed to the creation of a Greater Germany beyond the frontiers of 1914. As stated by the International Military Tribunal, "this necessarily involved the seizure of foreign territories." On 30 January 1933, Hitler was appointed Reich Chancellor by Hindenburg. However, this did not yet constitute or assure the seizure of dictatorial power. New elections were scheduled for 5 March, and the Nazi Party was in desperate need of support, financial and otherwise, to continue Hitler in office and make possible the completion of the Nazi drive to dictatorship. On 20 February 1933, Goering invited leading German bankers and industrialists to his home, in order to obtain financial support for the critical election. Hitler and Goering, in unmistakable terms, promised this would be the last election and Hitler assured his listeners that "the question of restoration of the Wehrmacht will not be decided in Geneva, but in Germany." Gustav Krupp, the only industrialist to speak at the meeting at which large funds were raised, thanked Hitler for the "clear picture" he had given of his ideas.

As the course of the Nazi dictatorship proceeded step by step, Gustav Krupp gave it increasing support. In April 1933, the same month in which Goering founded the Gestapo, the Reich Association of German Industry, through Gustav Krupp as its chairman, worked out a plan to reorganize German industry according to the leadership principle, "to coordinate in the interest of the whole nation both economic measures and political necessity." In transmitting the plan to Hitler, Gustav Krupp stated that the turn of political events was in line with the wishes long cherished by himself and the board of directors. The evidence is clear that this plan was developed by Gustav Krupp, working in close cooperation with Hitler.

In May 1933, the same month in which the old German trade unions were suppressed and replaced by the compulsory Nazi labor organizations, Gustav Krupp initiated the Adolf Hitler-Spende, or Adolf Hitler Fund, which was to furnish the Nazi Party with large sums for the SA, the SS, Hitler Youth, and similar organizations. In writing Hitler of his willingness to accept the chairmanship of the Spende for a fourth year, Gustav Krupp expressed his thanks "for the continued preparation of your far reaching plans, and the confidence that the fourth year of its development will bring this first part of your program much nearer to fulfillment than could be hoped or expected 3 years ago."

Gustav Krupp, after helping Hitler consolidate the dictatorship, continued to give his wholehearted support to the furtherance of the aims of such dictatorship. As early as 1933, he had funds placed at the disposal of Alfred Rosenberg, then chief of the Bureau of Foreign Politics of the Nazi Party, in order to "counteract" by "counterpropaganda" the "misunderstandings" which were being created by "ill-meaning circles." In October 1939 the Krupp firm assured the government that it, "had put itself years ago at the disposal of foreign propaganda, and that we had supported all requests addressed to us to the utmost."

Gustav Krupp publicly supported Hitler and the aims of the Nazi Party on numerous occasions. To quote just one early example, in November 1933 at a meeting of German industrialists he expressed approval of Germany's withdrawal from the League of Nations and the Disarmament Conference. He drafted a resolution incorporating this position.

After the seizure of power, Hitler's first concern was an immediate strengthening of the German armed forces in all respects. This was a necessary preliminary to repudiation of the Versailles Treaty and reoccupation of the Rhineland, both of which had to be accomplished before more ambitious steps could be taken.

The Krupp concern immediately after the seizure of power received orders for the production of antiaircraft guns, mortars, tanks and tank parts, submarine parts, and prior to October 1934, of six submarines. Two months before Germany unilaterally denounced the Versailles Treaty, the keels of these boats which were of the most advanced and modern type, were laid. Two months later the first one was delivered. The value of the secret development work which the Krupp Firm had been doing proved itself. As stated in a Krupp report (*NIK–6576, Pros. Ex. 466*) :*

> "Owing to the fact only, that the firm, acting on its own initiative and believing in a revival, has since 1918 retained at its own expense its employees, practical knowledge and workshops for the manufacture of war material, was it in the position not only to produce war material in its own plants *as soon as called to do so,* but to *initiate* other firms which were not familiar with the manufacture of war material, and therefore contribute to the enlargement of the armament capacity.
>
> "This has shown particular results as regards the heavy field artillery which is the backbone of the army." [Emphasis supplied.]

After Hitler had formally and publicly repudiated the armament provisions of the Peace Treaty in May 1935, the Krupp firm increased its production of armaments. By the end of 1937, after deliveries in the interim of almost 150 million Reichsmarks worth of material by Gusstahlfabrik and 50 million Reichsmarks worth by Grusonwerke, the orders on hand for these two plants alone for the German armament amounted to approximately 150 million Reichsmarks. Although orders on hand on 1 October 1937 would have been sufficient to keep the plants busy for the next 4 years, new and larger orders continued to be accepted. When war actually broke out, the Gusstahlfabrik had on hand orders from the German authorities for almost 300 million Reichsmarks and the Grusonwerke for 70 million Reichsmarks. These plants had delivered, from the seizure of power to the outbreak of the war, arms and war material to the value of about 400 million Reichsmarks. In the period from 1935 to the outbreak of the war, the Krupp firm continued cooperation with the Germany Navy in the construction of submarines, active participation in the program involving capital ships, mass production of tanks, and design and production of artillery of all sorts.

During the same period, the Krupp firm cooperated wholeheartedly in the program of the "Four Year Plan" to make Germany self-sufficient in essential war materials. The Four Year

* Ibid.

Plan, announced by Hitler in September 1936, was in the words of Goering, "to create a foundation upon which preparation for war might be accelerated." Immediately the Krupp firm undertook to build a synthetic fuel plant. Through the export of war material the firm procured foreign exchange and raw materials.

An essential part of the Nazi plan for aggression was the remilitarization and fortification of the Rhineland. On 7 March 1936, in defiance of the Versailles Treaty, the demilitarized zone of the Rhineland was entered by German troops. The Krupp firm, which as early as 1933 had begun working on fortifications, was asked to take a substantial part in the construction of the West Wall. According to a Krupp report, this construction would not have been possible without its assistance (*NI–764, Pros. Ex. 467*) :[1]

> "*Fortifications for the border defense line* (cupolas and casemates) of latest construction were first developed by Krupp after the war. The experience gained thereby served as a basis for the organization of the present system of fortification. It would have been impossible to carry out the required tasks had Krupp not been able to fall back upon its experience in the manufacture of armor plate and upon its foundries."

On 1 September 1939 the invasion of Poland touched off the Second World War. Every effort continued to be bent, as previously toward cooperating to the fullest extent possible with the Nazi government program. As a report prepared by Krupp in 1942 shows, their contributions to the program of conquest had already been substantial (*NIK–10499, Pros. Ex. 491*) :[2]

> "The superiority of German weapons in the campaigns of the last 2 years, in the battles in the air and also on the sea, is at the same time the best proof of the achievements which Krupp attained in the field of armaments.
>
> "The great fighting strength of the German artillery, the superiority of German tanks, especially the tank IV over those of the enemy, the performance of the 88mm. antiaircraft gun in support of other formations in attack as well as in defense against enemy tank attacks, the successes of the German Air Force and of the submarines, the fight of the battleship 'Bismarck,' speak clearly for the quality of these weapons, in the development of which Krupp played a decisive part."

In the light of the available evidence, the conclusion is inescapable that the Krupp firm under the leadership of Gustav Krupp

[1] Ibid.
[2] Ibid.

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played a vital and very substantial role in preparing Germany for its wars of aggression, as well as in the waging of these wars, and that, prior to the attack on Poland in September 1939, the huge armament production of the firm was contemplated to be used for purposes of aggression.

Gustav Krupp not being a defendant in this case, I do not of course express any views concerning his possible guilt. Furthermore, the Tribunal only had before it the evidence on counts one and four which was presented by the prosecution in its case-in-chief since the dismissal of these counts obviated the necessity for the presentation of the defense evidence. However, on the basis of the unanswered evidence, I think that the following facts must be concluded (*a*) that Gustav Krupp had the ultimate authority and control over the activities of the Krupp concern for years prior to World War II and until 1943, and (*b*) that he did in fact dominate and control the affairs of the Krupp concern in their many ramifications until after the outbreak of war.

The defendants in this case held no positions on a policy-making level in the Krupp concern until a comparatively late date. Only the defendants Alfried Krupp and Loeser were Vorstand members prior to the outbreak of war.

Loeser did not join the Krupp firm until October 1937 at which time he became a Vorstand member. Alfried Krupp did not become a Vorstand member until a year later. None of the defendants in my opinion, occupied a sufficiently important position with the Krupp firm at the time to justify charging them with responsibility for decisions taken or activities engaged in by the firm prior to approximately 1937. During the ensuing period, at least several of the defendants attained top positions within the Krupp firm and also in various most influential government-sponsored organizations. By that time, they had the power to make, or at least, to influence the basic policies of the giant Krupp concern.

As to most of these defendants, it is true that the evidence with respect to both their knowledge and participation is far from unsubstantial; as to several of them it is well nigh compelling.

31 July 1948

[Signed] WILLIAM J. WILKINS
Judge

VII. SPOLIATION—COUNT TWO

A. Introduction

Count two of the indictment is entitled "Plunder and Spoliation." The specifications of this count are contained in paragraphs 33 through 45 (pp. 23–29). All the twelve defendants except the defendants Lehmann and Kupke were charged with war crimes and crimes against humanity by criminal participation "in the plunder of public and private property, exploitation, spoliation, devastation, and other offenses against property and the civilian economies of the countries and territories which came under the belligerent occupation of Germany in the course of its invasions and wars."

The Tribunal found six of the defendants guilty under this count of the indictment (Alfried Krupp, Eberhardt, Houdremont, Janssen, Loeser, and Mueller) and acquitted four defendants (von Buelow, Ihn, Korschan, and Pfirsch). In its judgment the Tribunal based its findings of guilt upon discussions of specific acts of spoliation which included the following cases: "the Austin plant at Liancourt, France"; "the ELMAG plant located at Muhlhouse"; "machines taken from ALSTHOM Factory" in Belfort, France; "machines taken from other French plants"; and "machines and materials removed from Holland." (The judgment is reproduced on pp. 1327–1449.)

The judgment stated that "with respect to the acquisition of the Berndorf plant in Austria by the Krupp firm we are of the opinion that we do not have jurisdiction to which conclusion Judge Wilkins dissents." Judge Wilkins also dissented "to the failure of the Tribunal to find that acts of spoliation were committed by these six defendants in three other instances, namely, (1) the confiscation of the Montbelleux mining property in France, (2) the illegal acquisition of the CHROMASSEO mining properties in Yugoslavia, and (3) the participation by the Krupp firm in the spoliation of the occupied Soviet territories." (Judge Wilkins' dissent on spoliation is reproduced on pp. 1455–1484.)

In view of the extensive evidence concerning alleged spoliation in seven different countries, the materials reproduced herein have been restricted to selections from the evidence submitted by the prosecution and the defense concerning only four of the specific cases: the Berndorf case in Austria; and the Austin, ELMAG, and ALSTHOM cases in France. (The evidence reproduced in the volumes of this series dealing with the Flick

Case, volume VI, and the Farben Case, volumes VII–VIII, likewise contain large numbers of contemporaneous documents and considerable testimony dealing with questions of spoliation in various parts of Europe.)

In section B, below, a number of contemporaneous documents offered by either the prosecution or the defense are reproduced concerning the Berndorf case in Austria. Evidence concerning the policy toward the acquisition of plants in occupied western Europe follows next in section C. The next three sections contain evidence concerning the Austin plant in Liancourt, France (sec. D), the ELMAG plant in Muhlhouse, France (sec. E), and the machinery taken from the ALSTHOM firm in France (sec. F).

In all the volumes of this series dealing with Nuernberg trials, other than the Krupp Case, the selections from the evidence have included substantial amounts of the testimony of the defendants on trial. This was not possible in compiling this volume, since none of the defendants elected to take the stand to testify on his own behalf on the merits of the case. However, in both the present section and the following section (sec. VIII, Slave Labor) a number of affidavits of defendants have been included. These affidavits were signed before trial and introduced as prosecution exhibits. Concerning the limitation placed upon the admissibility of these affidavits by the Tribunal, the following statement in the Tribunal's judgment should be borne in mind: "The Tribunal ruled to the effect that the contents of affidavits made by the defendants would only be considered as evidence against the respective affiants and not as against any other defendant unless such affiant or affiants took the witness stand and became subject to cross-examination by the other defendants or their counsel. None of the defendants took the stand to testify upon the issues in this case, and hence such affidavits have only been considered in accordance with the ruling made."

B. The Berndorf Firm in Austria

TRANSLATION OF DOCUMENT NIK–8700
PROSECUTION EXHIBIT 1272

LETTER FROM VON WILMOWSKY, DEPUTY CHAIRMAN OF KRUPP'S AUFSICHTSRAT TO GUSTAV KRUPP, 3 FEBRUARY 1937, CONCERNING A PROSPECTIVE CONFERENCE BETWEEN HITLER AND GUSTAV KRUPP ON THE POSSIBLE ACQUISITION OF AUSTRIAN SHARES*

Landrat (retired) Freiherr von Wilmowsky

* * * * * * *

Marienthal
Naumburg (Saale) Land
Berlin W 9
Bellevuestr. 16–18a
3 February 1937

[Handwritten remarks] 5 February 1937, see enclosure

[Initials] GK [Gustav Krupp]

Dear Taffy!

I talked with State Secretary Lammers today. He is going to try to have the Fuehrer receive you, if at all possible, week after next. I told him that you wanted to speak to him about the possibility of acquiring Austrian shares and then also about Mr. Goerdeler. At the same time I asked him to see to it that the audience take place as soon as possible as you were very anxious to have the matter definitely settled, and besides, the Fuehrer himself had promised to receive you. You told me that you would be here on Monday the 8th. I can then tell you the details personally.

With hearty greetings from

Your loyal

[Signed] TILO [von Wilmowsky]

* Although the "Austrian shares" referred to are not defined in this letter, it is clear from other contemporaneous documents that the shares in question were those of the Berndorfer Metallwarenfabrik A.G., in Berndorf, Austria.

TRANSLATION OF LOESER DOCUMENT 18
DEFENSE EXHIBIT 408

MEMORANDUM ON CONFERENCES WITH MR. MANDL[1] ON 8 AND 9 JULY 1937, CONCERNING NEGOTIATIONS FOR THE ACQUISITION OF BERNDORF STOCK

[Copy from, Krupp file K.A.–14]

Memorandum on my conference with Mr. Mandl, on 8 and 9 July 1937, in Karlsbad.[2]

1. Berndorf—According to Mandl, the persons whose influence in the Creditanstalt is strong enough to enforce decisions would be agreeable to a transfer into private ownership of Berndorf stock owned by the Creditanstalt. About 90 percent of the Berndorf stock, which is owned by the Creditanstalt is involved.

Mandl considers it opportune to carry on negotiations anonymously for the present, in other words none of the real buyers must identify themselves. He thus proposes that Dr. Draxler, the former Finance Minister, who returned to his very successful law practice, be instructed to sound out Creditanstalt with a view to establish whether and on what terms they are disposed to sell the Berndorf stock. At the same time, Draxler would also be expected to obtain inside information on Berndorf, which would make it possible to get a concept of the internal situation of the works.

Mr. Draxler's compensation for this preparatory work might be fixed at 10,000 to 15,000 schillings.

Draxler is to receive authority from us to conduct the preliminary negotiations for the anonymous syndicate [Konsortium], consisting of Hirtenberg, Krupp, and ourselves.

It is Mandl's idea that if the scheme takes on tangible form each of the three groups will acquire one third of the stock. I brought to his attention that our interest might possibly be for less. However, we did not further discuss these particulars of ownership because the point first to be established is whether and at what terms the stock would be available at all. Personally, I am inclined to think that Krupp would welcome a participation higher than one third.

Mr. Koenig, the former director of Berndorf, is still living in Vienna, and it is through him that Mr. von Wilmowsky learned that last spring Mr. Mandl had discussed with me matters regarding the acquisition of the Berndorf stock. Following a sug-

[1] Fritz Mandl, Austria's largest munitions manufacturer in the pre-World War II period.

[2] The author of this memorandum has not been positively identified; Defense Counsel Wendland believes he was Dr. Joeden, a Krupp lawyer, see transcript, 27 April 1948, pp. 6090–6091.

gestion coming from the family of Krupp, Koenig then contacted Mandl, who stated quite frankly that he is negotiating with me in the matter and that, consequently, the most practical thing for Krupp to do would be to contact Altona, which was then done by means of a visit to Mr. Klotzbach.[1]

Mandl is interested in acquiring a participation in Berndorf because Hirtenberg[2] is the owner of Enzesfeld and, again, Hirtenberg and Berndorf together own the brass plants of Aachenrain. Mandl's idea now is that Enzesfeld, where he manufactures artillery ammunition jointly with Dynamit A.G., be permitted exclusive manufacture thereof and to concentrate [the manufacture of] Austria's requirements for brass in Berndorf. He also hopes thereby to put an end to competitive struggle in Austria's brass business and to solve the problem of semifinished brass production in this country, particularly in the field of exports.

In that connection Mandl also advised that Austria must arrange for producing electro-plated material needed in the manufacture of cartridges, at least to the extent that Austria's home requirements call for this. He is considering whether he should not purchase the plan, thus to comply with the demands of the Austrian Government.

Payment for the Berndorf stock could possibly be made through the German-Austrian Clearing [arrangement] or by deliveries of German products. There were no particulars discussed, however, because the problem must first be studied in all its aspects.

Mandl estimates that the entire project will involve about 8 to 10 million schillings, without, however, having accurate information in this respect.

---

[1] Arthur Klotzbach, member of Krupp Vorstand 1931–1938 and director of mining, trade, and locomotive plants department 1934–1938.

[2] Hirtenberger Patronenfabrik (cartridge factory) owned by Mandl.

TRANSLATION OF LOESER DOCUMENT 15
DEFENSE EXHIBIT 405

LAW ON THE INCORPORATION OF AUSTRIA INTO THE GERMAN REICH, 13 MARCH 1938, REICHSGESETZBLATT (REICH LAW GAZETTE), 14 MARCH 1938, PART I, PAGE 237

Law on the reincorporation of Austria into the German Reich as of 13 March 1938

The German Government has passed the following law which is published herewith:

Article I

The Federal Constitutional Law [Bundesverfassungsgesetz] passed by the Austrian Federal Government on the reunion of Austria with the German Reich of 13 March 1938, herewith becomes German law; it is worded as follows:

By virtue of Article III, paragraph 2 of the Federal Constitutional Law concerning extraordinary measures within the limits of the Constitution, B. G. Blatt* I No. 255, 1934, the Federal Government has decided:

Article I : Austria is a land of the German Reich.

Article II : On Sunday, 10 April 1938, a free and secret ballot by all German men and women of Austria over 20 years of age shall be held on the reunion with the German Reich.

Article III: At the ballot the majority of votes cast shall decide.

Article IV: The regulations necessary for the execution and supplementing of Article II of this Federal Constitutional Law shall be published in a decree.

Article V : This Federal Constitutional Law shall come into force on the day of its publication.

The Federal Government is in charge of the execution of this Federal Constitutional Law. Vienna, 13 March 1938.

Article II

The law at present valid in Austria shall remain in force until further notice. The introduction of Reich law into Austria shall be accomplished by the Fuehrer and Reich Chancellor or by the Reich Minister empowered by him to do so.

* Official Federal Law Gazette of Austria.

Article III

The Reich Minister for the Interior is empowered in agreement with the Reich Ministers concerned to issue legal and administrative regulations needed for the execution and supplementation of this law.

Article IV

The law shall come into force on the day of its publication.

Linz, 13 March 1938.

The Fuehrer and Reich Chancellor
ADOLF HITLER

The Reich Air Minister
GOERING
Field Marshal

The Reich Minister for the Interior
FRICK

The Reich Minister for Foreign Affairs
VON RIBBENTROP

The Deputy of the Fuehrer
R. HESS

TRANSLATION OF LOESER DOCUMENT 21
DEFENSE EXHIBIT 411

LETTER FROM MR. GRIESSMANN, MANAGER OF KRUPP'S GRUSON PLANT, TO GUSTAV KRUPP, 16 MARCH 1938, NOTING THAT DR. HAMBURGER OF BERNDORF HAD EXPRESSED A DESIRE THAT KRUPP IMMEDIATELY ACQUIRE THE BERNDORF FIRM

Copy: from Krupp File K.A.–14 to

Dr. Ing. Griessmann VDI [Verein Deutscher Ingenieure: German Engineers' Association]
Fried. Krupp-Grusonwerk Aktiengesellschaft

Magdeburg-Buckau, 16 March 1938

Answered as per enclosure, on 19 March 1938

[Stamp]

Private Secretariat
Received 19 March 1938
763

Dear Mr. von Bohlen,

In a letter of the 15th instant, in which he expresses his thanks for the courtesies extended to him in Magdeburg, Dr. Hamburger of Berndorf writes the following:

"Due to the development of recent days, I only today find the time to convey to your firm my thanks for the lavish reception given me and my wife by you in Magdeburg. Your words on the cooperation between our two firms made me particularly happy, and you may rest assured that as long as I have something to say in Berndorf everything will be done to preserve this close relationship.

"It is my opinion that the changed conditions make an even closer relationship with the house of Krupp, Essen, more imperative, if anything. I believe that now difficulties no longer exist which would impede an immediate energetic initiation of measures for carrying the project of the acquisition of the Berndorf property by Essen into effect, and I should very much appreciate your calling this to the attention of Mr. von Bohlen next time you may see him. In fact, not only Berndorf is invoved but the adjacent metal industry of the Triesting Valley as well. The simultaneous acquisition of that enterprise, which most likely will have to change owners, would be of most vital interest to Berndorf."

I have informed Dr. Hamburger that I have passed on to you the contents of his letter.

Devotedly and respectfully yours,

Signed GRIESSMANN

TRANSLATION OF DOCUMENT NI-8041
PROSECUTION EXHIBIT 1279

DECREE RESTRICTING THE ESTABLISHMENT OF BUSINESS ENTERPRISES AND PLANTS IN THE PROVINCE OF AUSTRIA, 19 MARCH 1938, 1938 REICHSGESETZBLATT (REICH LAW GAZETTE), PART I, PAGE 264

By virtue of Article III of the law concerning the reunion of Austria with the German Reich, dated 13 March 1938 (Reich Law Gazette I p. 237) the following is decreed:

1

For natural or legal persons who had their domicile or business establishment in the German Reich outside of Austria it is prohibited:

(1) To establish new business enterprises or plants in the province of Austria.

(2) To acquire business enterprises of plants located in the province of Austria, or to participate in such.

(3) To transfer to Austria business enterprises or plants located in the German Reich, outside of Austria.

(4) To establish subsidiaries, branch companies, plant installations, agencies, and the like in Austria for business enterprises or plants located in the German Reich outside of Austria.

2

The Reich Minister of Economics may grant special exceptions to the provisions of paragraph 1. He may transfer the right to grant this approval to other offices. Fees or conditions may be attached to exceptional cases of approval.

3

(1) Whoever contravenes provisions of this order or a supplement [thereto], or evades them, can be punished with a penalty by the Reich Minister of Economics. The penalty consists of a fine without a maximum being fixed. The fines will be recovered by the finance offices according to the provisions of the Reich Tax Regulation or according to regulations that have been or will be issued for its execution.

(2) He may on application of the Reich Minister of Economics be punished with imprisonment and a fine of an amount for which no maximum is fixed with one of these two punishments. The prosecutor may withdraw his charges.

4

The execution of the provisions of this decree may be enforced by the police power according to the laws of the land.

5

(1) This decree will be effective on the date of its promulgation.

(2) It will expire on 1 October 1938.

Berlin, 19 March 1938.

Reich Minister of Economics
WALTHER FUNK

The Reich Minister of the Interior,
As Deputy
PFUNDTNER

TRANSLATION OF DOCUMENT NI-766
PROSECUTION EXHIBIT 1281

LETTER FROM UNDER SECRETARY WILHELM KEPPLER[1] TO VON WILMOWSKY, 2 APRIL 1938, STATING THAT GOERING HAD NO OBJECTION TO KRUPP'S TAKING OVER A MAJORITY OF SHARES IN THE BERNDORF FIRM

[Handwritten] Tilo (He will reply with thanks) W. 5 April 1936

Vienna I, 2 April 1938
House of the Reichsstatthalter
Ballhausplatz 2

The Reich Commissioner for Austria
State Secretary W. Keppler
[Handwritten] 6/4
[Handwritten]
Mr. Joesten—Kindly note!
Mr. Goerens—Kindly note! G 6/4
n. B.
Landrat Freiherr von Wilmowsky
Berlin W 9
Bellevuestr. 18a.

Dear Mr. von Wilmowsky!

I did not find the time before to answer your letter regarding Krupp-Berndorf. I have meanwhile spoken to Field Marshal Goering, and he raised no objections to your firm taking over the majority of shares of the above-mentioned firm. I shall presumably discuss the matter also with the Commerce Ministry here today.

As I already informed you the transfer of blocks of shares has been stopped by the decree of the Reich Ministry for Economics;[2] thus, you will not be confronted with *faits accomplis* which might be undesirable to you.

I may take it for granted that after the transfer of this enterprise you will do everything possible to raise the Austrian economy to the level which is desirable not only in the interest of Austria but also in that of Germany.

Heil Hitler!
Yours very truly
[Signed] KEPPLER

[1] Keppler, at this time Reich Commissioner for Austria, was convicted on various counts of the indictment in the Ministries Case (United States *vs.* Ernst von Weizsaecker, et al., Case 11, Vols. XII–XIV).

[2] Document NI-8041, Prosecution Exhibit 1279, reproduced above in this section.

TRANSLATION OF DOCUMENT NIK–11183
PROSECUTION EXHIBIT 1286

LETTER FROM OLSCHER, GERMAN INDUSTRIALIST, TO DIRECTOR HELLER, 4 MAY 1938, NOTING GOERING'S PROMISE THAT THE BERNDORF FIRM WAS TO BE SOLD ONLY TO KRUPP AND COMMENTING ON OLSCHER'S DISCUSSION WITH DEFENDANT LOESER ON THE PURCHASE PRICE

Berlin W 8, 4 May 1938
Franzoesische Strasse 53–56

Dr. Olscher, member of the Vorstand of the
Vereinigte Industrie-Unternehmungen AG, and the
Reichs-Kredit-Gesellschaft AG.
Ministerialdirektor (active)

[Stamp]
Ing. Heller initials
Dr. Friedl
Dr. Fritscher
Dr. Johann initials
Dr. Pfeiffer initials
[Handwritten] Please return.

Director Heller
Oesterreichische Creditanstalt-
Wiener Bankverein[1]
Vienna I
Schottengasse 1

Dear Mr. Heller,

I already told you in Vienna that State Secretary Keppler had informed me that Field Marshal Goering had promised Mr. Krupp von Bohlen und Halbach that the shares of the Berndorfer Metallwarenfabrik Arthur Krupp A.G. were to be sold only to him. I suppose that it was perhaps assumed that they were kept at the "Industriekredit."[2] I thereupon informed Mr. Keppler that the sale of the shares could of course only be effected according to economic principles, i.e., that an adequate price had to be paid in consideration of the prospects of improvement based on the expansion of the Austrian economy.

Today Dr. Loeser, member of the Vorstand of Krupp, Essen, visited me in connection with this matter. I told him that you

[1] This bank held the majority of the shares of the Berndorf firm.
[2] Another Austrian bank.

were informed of the fact that only a sale to Krupp, Essen was to be considered, and that it had to be left up to Krupp to come to an agreement with the Creditanstalt as to the price. In my opinion the latest price of 11 March 1938 (111, 20 percent) is of course indebatable. Mr. Loeser fully appreciates this opinion and will contact you within the next few days with the request first to inform him or another representative of Krupp's as to the situation of Arthur Krupp, and secondly to arrange for the Fried. Krupp A.G. to gain insight into the Arthur Krupp A.G. immediately. Fried. Krupp A.G. will then make you an offer. In my opinion Fried. Krupp A.G. is definitely in a position to pay a favorable price for Berndorf.

In case you cannot come to an understanding with Fried. Krupp A.G., I am quite ready to act as mediator.

Heil Hitler!

Very truly yours

[Signature] OLSCHER

TRANSLATION OF LOESER DOCUMENT 25
DEFENSE EXHIBIT 415

EXTRACT FROM A LETTER OF THE DEFENDANT LOESER TO GUSTAV KRUPP, 16 JUNE 1938, CONCERNING THE PURCHASE PRICE FOR THE BERNDORF FIRM[1]

Copy: From Krupp records K.A.–14.

Excerpt from a letter by Dr. Loeser to Mr. von Bohlen, dated 16 June 1938 (original in the personal file of Loeser)

* * * * * * *

Yesterday Dr. Olscher was here. Accordingly, I am enclosing a note concerning the conversation and also concerning the subsequent conversation with your son, Claus. If it should be possible to get results in the near future without the intervention of the Treuhand,[2] I would recommend this.

At the present time it does not seem to me to be possible to evaluate an Austrian firm such as the Krupp-Berndorf correctly in view of the many factors of uncertainty which I have referred to in the notes. As far as can be seen, the stock exchange price is just about right from a business standpoint. Any price that

[1] Further extracts from this letter were not introduced in evidence as a part of this defense exhibit.

[2] Deutsche Treuhand- und Revisionsgesellschaft, a Reich-owned accounting and receivership institution.

may be paid which is higher than that would seem to me, if I may say so, to be definitely a consideration of family policy and of the value attached to the fact that an enterprise with the name of Krupp is reincorporated in the combine.

* * * * * * *

TRANSLATION OF LOESER DOCUMENT 26
DEFENSE EXHIBIT 416

LETTER OF GUSTAV KRUPP TO DEFENDANT LOESER, 19 JUNE 1938, CONCERNING PURCHASE PRICE OF THE BERNDORF FIRM

Copy: From Krupp records K.A.–14

Badgastein, 19 June 1938

Hotel Astoria

Subject: Berndorf.

Dear Mr. Loeser,

Thank you very much for your letter of the 16th of this month.[1] I am only sorry that the Berndorf affair should now be taking up your attention even during your convalescence; however, the matter should not be left unsettled for too long. Just in these last few days a further reason has appeared, in addition to the other one, for trying to clarify the matter as soon as possible. Yesterday and today I talked over the whole question with Claus[2] once again in the light of your letter, and I have authorized him to raise our offer to Mr. Olscher to a maximum of 150 percent, together with the "Besserungsschein"[3] undertaking to make an additional payment in future if shares go up, which you suggested, and granting the exclusion of the estate. He is to emphasize the fact that this price already seems very excessive to all of us, objectively considered, and gives very little promise of a profitable return. Consequently, I would also have to reserve my right to withdraw this offer if it is not accepted within a reasonable period; in that case I would come back to my former proposal concerning the trusteeship of the Deutsche Treuhand- und Revisionsgesellschaft, in order to provide a basis for the negotiations. As to your writing that the Deutsche Treuhand- und Revisionsgesellschaft, in the opinion of yourself and Mr. Olscher, would be reluctant to assume this function, I must say that this opinion is unfounded. On the contrary, the chairman of the

[1] An extract from this letter, (Loeser 25, Def. Ex. 415) is reproduced immediately above.
[2] Claus von Bohlen, a son of Gustav and Bertha Krupp.
[3] A promise of additional payment in case of a rise in the value of the shares.

Aufsichtsrat, Mr. Keppler, as likewise the chairman of the Vorstand, Dr. Voss, have told me, that they would be particularly glad to take over such a trusteeship, because they had established the Vienna branch for precisely this kind of activity. Claus sent a wire from here to Mr. Olscher and yourself early today.

It is indeed very unfortunate that you have not yet fully recuperated, but it is understandable in view of what has occurred. I hope that you, too, are now having the good weather which we have enjoyed in the last few days and which will surely contribute to your recovery. My wife and I are getting along very well here, even though the baths are always somewhat trying. Foolishly enough I, too, have had to go to the dentist for a slight inflammation.

Best regards to your wife and greetings to yourself from my wife and me.

Sincerely yours,

TRANSLATION OF DOCUMENT NIK–8438
PROSECUTION EXHIBIT 1290

EXTRACT FROM A LETTER OF THE DEFENDANT LOESER TO GUSTAV KRUPP, 24 JUNE 1938, CONCERNING NEGOTIATIONS FOR PURCHASE OF THE BERNDORF FIRM

Dr. E. Loeser at present Villenkolonie Neufahrland am See bei Potsdam 4, 24 June 1938

[Handwriting illegible] 25 June 1938 [Initials illegible]

Mr. Dr. Krupp von Bohlen und Halbach
at present Badgastein
Hotel Astoria

Dear Mr. von Bohlen,

Many thanks for your kind letter dated 19th instant. In connection with the Berndorf matter I should like to inform you today about a confidential report passed on to me recently by Mr. Dr. Schaeffer of the Reichs-Kredit-Gesellschaft. According to this, the entire Austrian negotiations are rendered more difficult at present by the fact that the Austrians, and especially the Viennese, are said to be annoyed about the domineering or managing attitude adopted by Berlin or the old Reich, and that they, on their part, were adopting a reserved and even negative attitude with regard to many questions, specially pertaining to business and economy, as a result of this vexation. The slogan "Austria for the Austrians," or differently expressed "More inde-

pendence for the Austrians" had been successful to a certain degree. That was shown in the case Keppler and is now obvious during many economic negotiations. In the Reichs-Kredit-Gesellschaft, they were also experiencing this with regard to the questions on which they were working with the Creditanstalt. Owing to this, the influence in the Berndorf question which could have been exercised from Berlin by the VIAG [Vereinigte Industrie Unternehmungen, A.G.] (Olscher) had been weakened. Mr. Dr. Schaeffer added that he was telling me this so that we should not be surprised if the influence which could have been exerted from here for the purpose of a speedy settlement of the Berndorf business, had grown weaker. Here in Berlin they themselves had probably overestimated the possibilities of influencing the Austrian economic enterprises, at least in comparison with the latest development.

Although I do not know whether this information is already obsolete owing to the latest negotiations between your son and Dr. Olscher and the Creditanstalt, there is the possibility that this remark of Dr. Schaeffer might still be of interest to you.

* * * * * * *

Yours sincerely,

Dictated: LOESER

TRANSLATION OF DOCUMENT NIK-12076
PROSECUTION EXHIBIT 1270

EXTRACT FROM THE BOOK "ALFRED KRUPP AND HIS FAMILY"* CONCERNING THE ACQUISITION OF THE BERNDORF FIRM

* * * * * * *

Berndorfer Metallwarenfabrik Arthur Krupp Aktiengesellschaft, Berndorf near Vienna

The Anschluss [incorporation] of the Ostmark [Austria] to the German Reich in March 1938 had the gratifying result as far as the Krupp firm was concerned that an old plant established in 1843 by the Krupp brothers and the house of Schoeller, the "Berndorfer Metallwarenfabrik," could be incorporated in the parent firm of Krupp in Essen. [Page 310 of original.]

* * * * * * *

* The book is subtitled, "The family of Krupp and its achievements from 1787 to 1940, a description based on the family and works archives." It was written by Wilhelm Berdrow and published in Berlin in 1943.

C. Policy toward the Acquisition of Plants in Occupied Western Europe

I. CONTEMPORANEOUS DOCUMENTS

PARTIAL TRANSLATION OF DOCUMENT NI–048
PROSECUTION EXHIBIT 643

CLAIMS OF GERMAN IRON AND STEEL MANUFACTURERS WITH RESPECT TO OWNERSHIP AND OPERATION OF MINES AND STEEL WORKS IN AREAS OF WESTERN EUROPE NEWLY OCCUPIED BY GERMANY, JUNE 1940

1. Letter from Poensgen[1] to Maulick and Reichert,[2] 10 June 1940, transmitting written report on a meeting of the "Small Circle"[3]

Vereinigte Stahlwerke Aktiengesellschaft (United Steel Works, Inc.) Duesseldorf.

Attention: Messrs. Maulick
Dr. Reichert

In reply, mention: Secretariat E. Poensgen

Our phone	Our reference	Duesseldorf
2470	Pg/T	10 June 1940

Subject: Meeting of the Small Circle of 7 June 40.

Herewith a written report on this meeting. You will see from it those points which should be dealt with further by you. I would ask you kindly to define your attitude to the various questions.

[Signed] POENSGEN

Enclosure.

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2. Extracts from Poensgen's written report on the "Small Circle" meeting of 7 June 1940, which included discussions of the policy of Minister Funk and the private iron and steel manufacturers regarding ownership and operation of enterprises in newly occupied western European areas (defendant Loeser attending)

Conference of the Small Circle on Friday, 7 June 1940, at Duesseldorf, Stahlhaus-Sued (Steel Building, South), 8th floor.

[1] Ernst Poensgen was chairman of the Vorstand of the Vereinigte Stahlwerke A.G., one of the largest German steel combines, and chief of the Economic Group Iron Producing Industry until 1942.

[2] Reichert was manager of the Economic Group Iron Producing Industry.

[3] The "Small Circle" (Kleiner Kreis) was a loose association of the six largest privately owned iron and steel enterprises for such matters of joint concern as production, price, and wage policy.

Present were the following gentlemen: Dr. Flick, Dr. Kloeckner, Dr. Loeser, Luebsen, E. Poensgen, Tgahrt, Dr. Voegler, Zangen, Dr. Winkhaus.

I. Mr. Zangen[1] gave an account of his conversation with Minister Funk.[2]

a. Mr. Funk referred to the fact that he has given considerable assistance to business [Wirtschaft], particularly as regards the problem of taxation, and he now asked in return that he should receive assistance by a reasonable attitude in the future, and that care be taken that no excesses occur, which might give an opening to the opponents of private enterprise to make accusations against business; particularly one should seek now to repress all *desire for annexation,* etc.

* * * * * * *

II. *Minette*—Mr. Poensgen gives a picture of the task Steinbrinck[3] and discusses the situation in the several countries.

a. Holland—On Mr. Poensgen's suggestion the economic group adopted the attitude that the *Ijmuiden Smelting Works* cannot be usefully taken over. In that connection it was stated that the water piping used for the transformation of sea water into fresh water had been destroyed by the British, and that it would take at least one year to repair the plant. Also the entrance to the harbor was blocked by a sunken ship. He did not know if it was possible to transport ore inland.

b. Belgium—Those present took note of the sending-out of the *Bulle Commission* and of the future *Schwede Mission.* The unanimous tendency of those present was that one should avoid to break up works in Belgium. Those works should remain intact except for removal of individual pieces of machinery which were lacking here.

c. Luxembourg—In this connection information was received on previous discussions of Mr. Steinbrinck in Luxembourg, and of the appointment of *Mr. Berve for ARBED*[4] and *Mr. Meier for Differdange.*

d. It is reported that *confiscation commissions of the Wehrmacht* have secured the supplies and in part are removing them. It is our unanimous opinion that the materials which have been

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[1] Zangen was chairman of the Vorstand of the Mannesmann-Roehren-Werke, Duesseldorf, and president of the Reich Group Industry.

[2] Funk, Reich Minister of Economics, was a defendant in the case before the IMT. (Trial of the Major War Criminals, *op. cit. supra,* vol. I.)

[3] At this time Steinbrinck was Plenipotentiary for the steel industry (Generalbeauftragter fuer die Stahlindustrie) in the occupied territories of northern France, Holland, Belgium, and Luxembourg. Previously Steinbrinck was a leading official in numerous Flick enterprises. He was a defendant in the Flick Case (United States *vs.* Friedrich Flick, et al., Case 5, Vol. VI).

[4] Acleres Riunes de Burbach-Eich-Dudelange, largest steel plant in Luxembourg.

removed should be assigned to the Steel Works Association [Stahlwerksverband] for further distribution in Germany.

f.[1] Because of the *alleged tendencies on the part of heavy industry toward incorporation* [Einverleibungstendenzen] and their claims for former property, it has been decided to address a joint letter to the Reich Minister for Economics. (See enclosure.) Whether future claims shall be represented by the old association for vested interests [alte Interessengemeinschaft], that is something we shall have to resolve at a future date. In any event, it appears expedient that this association be reactivated *under the appointment of a new business manager.* (*Regierungsrat Schoen?*) In this letter *claims for Minette supplies* are also to be stated unless they are required for the Saar and Luxembourg, whereby the principle is to be applied that the Ruhr Works will have to pay for all ore which they may obtain from there at once.

Mr. *Flick*[2] points out that in the *East the former owners* have been eliminated. Although he does not in any way wish to contest the claims of the Ruhr Works regarding former property in Luxembourg and Lorraine, he could, nevertheless only agree to the letter to Mr. Funk with the *reservation that under certain circumstances* he would assert claims in the East.

III. The firms are prepared to provide officials, engineers, and business men upon the request of *Mr. Steinbrinck,* the salaries of which *officials,* etc., will continue to be paid by them, and they are also prepared to meet expenses such as traveling and accommodation allowances.

* * * * * * *

XII. Scrapping of plants—Mr. Tgahrt points out that there is a request from Dr. Kiegel for a *report on all plants which were not in operation in 1939 in order to make them available for scrapping.* In most cases the scrapping of such plants is certainly not justified. *The economic group will investigate this problem further.*

* * * * * * *

XIV. Dr. Winkhaus raises bitter complaints regarding the fact, that the *distribution of ore,* agreed upon for the adjustment of stocks on 1 May, was not making any progress since still further objections were being raised regarding individual points. It becomes apparent that with the exception of Krupp it is the view adopted by all firms that by the adjustment agreed upon the past

[1] There is no paragraph "e" in the report.

[2] Flick was the leading defendant in the Flick Case (United States *vs.* Friedrich Flick, et al., Case 5, Vol. VI). He was convicted of spoliation with respect to the Rombach plant in Alsace-Lorraine. Further contemporaneous documents concerning the activities of German iron and steel manufactures in the occupied West are contained in volume VI.

would have to be regarded as settled and that any *special wishes, such as for instance, special allotment of material for armor plates, were unjustified* and would have to be subject to general distribution.

There are complaints also *regarding deliveries of German ore* since some firms are refusing to accept delivery. Mr. Loeser will make a detailed investigation of this matter and then report.

* * * * * * *

[Signed] POENSGEN

Copies to:

Lemarche	Steinbrinck
Maulick	Dr. Voegler
Dr. Petersen	Dr. Wenzel
Dr. H. Poensgen	Dr. Flick
Dr. Reichert	Dr. Kloeckner
Schleifhacken	Dr. Loeser
Schwede	Luebsen
Dr. Sempell	Tgahrt
Dr. Spaeing	Zangen
Dr. Steinberg	

---

3. Proposed letter from Poensgen to Reich Minister of Economics Funk concerning the question of German iron and steel manufacturers' claims for possession of mines and foundries in the Minette Ore District (Alsace-Lorraine)

To the Reich Minister of Economics
Berlin W 8
Behrenstr. 43

On the occasion of a conference with Director General Zangen, you touched upon the question that the German steel firms were even today making claims, in order to obtain possession of mines and steel works in the Minette District which may possibly become subject to the jurisdiction of the German Reich on a permanent basis.

May I permit myself to inform you that this matter was discussed in detail among the circle of the following firms during recent days, that is to say:

Gutehoffnungshuette Oberhausen A.G., Oberhausen/Rhld.
Hoesch-Aktiengesellschaft, Dortmund
Kloeckner-Werke A.G., Duisburg
Fried. Krupp A.G., Essen

Mannesmann-Roehren-Werke, Duesseldorf
Vereinigte Stahlwerke A.G., Duesseldorf.

May I report to you the agreed view of the above-mentioned firms with regard to this question in detail.

1. As long as the war lasts, i.e., until peace is signed, the above-mentioned firms will refrain from making any claims regarding the transfer of ownership or of usufructuary supply rights in respect to Minette Mines in the Minette District or to steel works in Luxembourg or Lorraine, in which connection they make the provision that no claims possibly made by other sources will in future be held against them and given preference.

2. If, still during the war, ore (Minette) is supplied from the war zone or from Luxembourg either from stocks or from newly produced material, then the [above-mentioned] firms will recognize unconditionally the *rights of firms which are possibly being put in operation in occupied territories, or of the steel works in the Saar territory with regard to these quantities.* Should ore in amounts above the requirements of these firms be available, then the above-mentioned [German] firms will claim that they be given usufructuary rights.

3. The above-mentioned *firms reserve for themselves the right to state their claims after the end of the war* which will have the object of giving them the possibility of having returned to them those mines and steel works (acquire them [erwerben]?) which had been partly or fully their property before the World War and had been operated by them.

Apart from the afore-mentioned firms, other German companies have held shares and property in Alsace-Lorraine before the World War; naturally, the above-mentioned firms are of the opinion that this reservation applies in the same manner to other German companies.

4. *Over and above the former property of the above-mentioned firms there are in existence in Lorraine further important ore deposits.* Should their transfer to Reich German owners be planned then it would appear suitable to the above-mentioned companies, as far as the situation can be judged today, if *these ore mines were formed into a* joint holding in the hands of all German works which produce raw iron.

Regarding the purchase of this ore and a share in this company and the share in the costs of financing it, a suitable key would have to be sought, which it would, no doubt, be easy to find.

[Initial] P [Poensgen]

TRANSLATION OF DOCUMENT EC–137[1]
PROSECUTION EXHIBIT 645

LETTER FROM ARMED FORCES OPERATIONS OFFICE TO ARMED FORCES ECONOMIC ARMAMENT OFFICE, 9 AUGUST 1940, FORWARDING A COPY OF GOERING'S ANNOUNCEMENT OF 2 AUGUST 1940 ON POLICY OF INCREASING GERMAN INFLUENCE IN FOREIGN ENTERPRISES

[Stamp] Secret

W F A
Abt. L (IV)[2] F.H.Q., 9 August 1940
2101/40 Secret [Illegible Handwriting]

Reference: Plenipotentiary General for the Four Year Plan
Subject: German Influence in Foreign Enterprises.
To: Wi Rue Office[3]

WFA/Department L supposes that the further work in this matter on the part of OKW will be done by Wi Rue Office.

WFA only points out that, (*a*) Denmark, Poland, and France are not mentioned, and (*b*) the Armistice Commission has to be informed.

BY ORDER:
[Signed] POLECK

Reich Marshal of the Greater German Reich
Plenipotentiary General for the Four Year Plan

Berlin W 8,
2 August 1940
Leipzigerstr.3
[Illegible Initials]

[Stamp] *SECRET*

One of the goals of the German economic policy is the increase of the German influence in foreign enterprises. It cannot be seen yet if and in which way the Peace Treaty will deal with the transfer of holdings and so on, but it is necessary even now that every opportunity is used to make it possible for the German economy to gain a foothold even during the war in the enterprises of interest in the economy of the occupied countries and to prevent

[1] This document may also be found in Nazi Conspiracy and Aggression, *op. cit., supra*, vol. VII, p. 309.

[2] Department National Defense (L) of the Armed Forces Operations Office (Wehrmachtsfuehrungsamt) under the direction of General Warlimont, defendant in the High Command Case, United States *vs.* Wilhelm von Leeb, et al., Case 12, vols. X–XI.

[3] Economic Armament Office (Wirtschafts- Ruestungs- Amt) originally under the direction of General Thomas, after 1943 under Speer, Reich Minister of Armament and War Production.

any measures which could make it harder to reach the above-mentioned goal.

In this respect I would like to point out:

1. The transfer of capital from Germany to the occupied countries will be facilitated in such a way that even now directed purchases by German circles of economic enterprises in the occupied countries will be made possible. I will inform you in the near future about further details; especially I reserve the right to grant permission for the purchasing of enterprises, participations, etc., situated in occupied countries. The directives that will be issued by me shall form the framework for these activities.

2. I suppose that the foreign exchange restrictions issued in the occupied countries will be an effective blockade against the transfer of titles of foreign economic enterprises to third foreign countries (these will be mainly the United States of America and Switzerland). I request that the foreign exchange laws be examined and, if necessary, amended to this effect, and that the right reserved by German authorities to grant such permissions be handled in the above-mentioned way.

3. It appears further useful to take care that titles of economic enterprises which are located within one of the occupied countries should only be sold to German interests and in no case to citizens of another occupied country or a third foreign country. I request that the necessary legal regulations be issued.

4. In view of the situation such measures will not be sufficient to reserve the important enterprises for ourselves because in many cases the holdings were sold before the entrance of German troops or the titles, shares, etc., transferred to foreign countries. It is desirable that such past transfers of titles to domestic [other French companies] or foreign companies be retroactively annulled or it should be possible to issue a directive making the legal situation for the purchaser of such assets so insecure that the deal becomes less attractive to the buyer. I therefore ask you to examine how far our object will be reached by issuing a decree which makes the sale of property rights to domestic or foreign enterprises retroactively dependent on permission. I suggest that the beginning of hostilities between the respective country and the German Reich be fixed as the key date.

In this respect I would like to point out that the Foreign Office has already let it be known to the governments of the Balkan countries that we do not acknowledge as legal any transfers of holdings in Balkan enterprises owned by Norwegians, Dutch, Belgians, English, and French, if such transfers were effected after the beginning of hostilities. The Balkan Governments have been requested to change their own laws accordingly, that is, to

make the transfer of holdings in indigenous enterprises or in indigenous plants operated by foreign enterprises dependent on the granting of a permission.

The point that in the occupied countries the granting of a permission for transfers has been made retroactively obligatory will be a useful argument in later negotiations, even if the legality of such an obligation to obtain permission should be doubted in certain countries because of its having been introduced after the transfer took place. At least it will be possible to gain time in this way, which will give us an opportunity for negotiations.

I ask for a report about the result of your examination of this question.

Signed: GOERING

To:

a. Reich Commissioner for the Occupied Netherlands Territories

b. Reich Commissioner for the Occupied Norwegian Territories

c. Military Commander Belgium

I am sending copy for your information. I request you to inform the Armistice Commissions.

Signed: GOERING

[Stamp] Certified.
[Illegible signature]
Regierungssekretaer
[administrative official]

To:

The Foreign Office, c/o Ministerialdirektor Wiehl

Reich Minister for Economy, c/o Ministerialdirigent Dr. Schlotterer

Supreme Command of the Army [Armed Forces], c/o Colonel Warlimont

Supreme Command of the Armed Forces, c/o Maj. Gen. Thomas

TRANSLATION OF DOCUMENT NIK-3990
PROSECUTION EXHIBIT 653

KRUPP CIRCULAR, 24 MAY 1941, CONCERNING THE HANDLING OF INFORMATION PERTAINING TO KRUPP EXPANSION BY ACQUIRING INTERESTS IN FOREIGN PLANTS, SIGNED BY DEFENDANT LOESER, AND DISTRIBUTED TO SIX OTHER DEFENDANTS

Main Administration No. 10204

[Handwritten] Matter filed under A 87

Gusstahlfabrik Essen, 24 May 1941

Confidential

Subject: Expansion of the Krupp concern by purchasing or acquiring an interest in other plants.

No general directions can be given about the expansion of the Krupp concern by purchasing or acquiring an interest in foreign plants both in Germany and abroad.

Therefore Krupp's interests must be pursued as an opportunity occurs.

For that purpose, information must be received on time. Therefore, we request that if you have such a case you inform the person signing to the right of this circular [Ewald Loeser], so that the further treatment of the matter and its substance and form can be decided within the small circle of the directorate [engerer Vorstand].

FRIED. KRUPP
Aktiengesellschaft
Das Direktorium
[Signatures]

GOERENS LOESER

Distribution for Main Administration Circular No. 10204 of 24 May 1941:

Messrs. Goerens	Habermaas
Loeser	Hobrecker
A. von Bohlen	Lorenz
Pfirsch	Louis
F. Mueller	Rademacher
Houdremont	Schroeder
Korschan	Fugmann
E. Mueller	Kobitzsch
Janssen	Schroeder
Althaus	Rosenbaum
Boeminghaus	Bird
Busemann	Sohl/Kyllmann

TRANSLATION OF DOCUMENT NI-2897
PROSECUTION EXHIBIT 654

KRUPP FILE NOTE BY DEFENDANT MUELLER, 14 MAY 1943, CONCERNING THE OFFICIAL POLICY OF GERMAN ENTERPRISES TAKING AN INTEREST IN BELGIAN AND FRENCH FOUNDRIES, WITH COPIES TO FOUR DEFENDANTS

[Stamp] F No. 589
Received: 19 May 1943

File: F Vw

Coordinator: Mue

Copies to: A. von Bohlen, Goerens, Houdremont, F. Mueller, Janssen, E. Mueller, Clausnizer

14 May 1943

Note for File by Prof. Dr. Mueller

Subject: Supervision of a French foundry.

On another occasion Dr. Rohland* mentioned that the German enterprises should concern themselves more with the French and Belgian foundries. It was intended, however, to let these works retain their own administration, the German works offering merely friendly advice to the individual foundries. On the whole, the works would readily collaborate; however, it is necessary that they should be closely linked to some German enterprise, whereby their position would be strengthened, and their production could be increased. This would also enable the German enterprise concerned to gain influence over the foundry in question and to ascertain to what extent the production could be utilized for their own tasks. For Krupp, Dr. Rohland took Marrel Frères into consideration or some other works if more convenient.

My question whether he has discussed this matter already with Prof. Houdremont, he answered in the affirmative mentioning, however, that in view of the general instructions he considers the *Totalitaet* [insistence on totality] standpoint of Mr. Houdremont as not practicable. The taking-over of the management of the works by the German enterprises concerned was not under consideration.

I promised to give him further information.

[Signature] MUELLER

* Rohland was deputy chairman of the Reich Association Iron (RVE) and a Vorstand member of the Vereinigte Stahlwerke, one of Germany's largest steel combines.

TRANSLATION OF DOCUMENT NIK-13065
PROSECUTION EXHIBIT 812

AFFIDAVIT OF WILLIAM J. STEEN*, 10 DECEMBER 1947, CONTAINING EXTRACTS FROM THE MINUTES OF KRUPP'S VORSTAND SHOWING VARIOUS APPROPRIATIONS OF FUNDS FOR ACQUIRING SHARES IN OR ESTABLISHING FOREIGN CONCERNS

I, William J. Steen, herewith certify under oath that I have seen the below-mentioned items in captured documents containing the minutes of the Vorstand of the Fried. Krupp A.G. The names of the persons recorded herein under the word "Signed" appear at the end of the pages from which the items mentioned in this affidavit are selected.

Meetings of the Fried. Krupp A.G. Vorstand
from 1 October 1941 to 30 June 1944

11 November 1941

Present : Goerens, Loeser, Alfried von Bohlen.
Subject : RM 154,000 for the purchase of 22,000 shares of Société Anonyme Internationale des Mines et Commerce des Minerais, Athens (Greece).
Requested by: Main Administration Ore Mining.
Speaker : Alfried von Bohlen.
Decision : Approved.
Signed : E. Loeser, Goerens, Alfried von Bohlen.

6 January 1942

Present : Messrs. Goerens, Loeser, Alfried von Bohlen.
Subject : 250,000 Norwegian kroner or RM 142,050 as temporary credit for acquisition and mining of molybdenum deposits in Norway.
Requested by: Main Administration, Ore Mining.
Speaker : Mr. Alfried von Bohlen.
Decision : Approved.
Remarks : Specially financed.
Signed : Alfried von Bohlen, Loeser, Goerens.

4 May 1942

Present : Goerens, Loeser, Alfried von Bohlen.
Subject : RM 130,000 for acquisition of shares of N.V. Stoomvaart-Maatschappij Wijklijn, Rotterdam.
Speaker : Mr. Loeser.
Decision : Approved.
Signed : Goerens, E. Loeser, Alfried von Bohlen.

* Steen was a research analyst on the prosecution staff. The defense waived cross-examination as to this affidavit. *(Transcript, 24 February 1948, pp. 4620–4621.)*

13 June 1942

Requested by: Friedrich-Alfred-Foundry.
Subject : Establishment of Krupp-Eisenhandel Riga G.m.b.H.
Credit : RM 20,000.
Decision : Approved.
Signed : Alfried von Bohlen, Loeser, Goerens.

25 June 1942

Requested by: Agent's Office.
Subject : Purchase of real estate in Bucharest for erection of a steel storage at the request of "Trei Inel".
Credit : RM 60,000.
Decision : Approved.
Signed : Alfried von Bohlen, E. Loeser, Goerens.

11 July 1942

Requested by: Main Administration Ore Mining.
Subject : Deutsch-Bulgarische Chromerzbergbau A.G. Sofia; participation Reichswerke Herm. Goering and Fried. Krupp A.G. 50 percent each.
Credit : RM 1,000,000.
Decision : Approved.
Signed : Alfried von Bohlen, Loeser, Goerens.

16 September 1942

Requested by: Motor Vehicle Department [Kraftwagenfabrik].
Subject : Loan for establishment of Krupp S. A. Industrielle et Commerce, Paris.
Credit : RM 1,250,000.
Decision : Approved.
Signed : Alfried von Bohlen, E. Loeser, Goerens.

15 December 1942

Requested by: Friedrich-Alfred- Foundry.
Subject : Establishment of Krupp Eisenhandel Ukraine G.m.b.H. in Kiev.
Credit : RM 100,000.
Decision : Approved.
Signed : Alfried von Bohlen und Halbach, Loeser, Goerens.

17 May 1943

Requested by: Participations Control Office (Beteiligungs-Buero).
Subject : Payment of funds for Fried. Krupp Berthawerk A. G. Breslau.

Credit : RM 8,750,000 approved.
Signed : Alfried von Bohlen, Goerens, Janssen.

I, William J. Steen, have checked each item quoted above with the original captured document reporting the meetings of the Vorstand of Friedrich Krupp A.G. and certify under oath that the items enumerated above are a selection taken by me from that original document.

[Signature] WILLIAM J. STEEN
AGO A–446 852

TRANSLATION OF EBERHARDT DOCUMENT 801
DEFENSE EXHIBIT 2909

LETTER FROM ALBERT PIETZSCH, MANAGER OF THE REICH CHAMBER OF ECONOMICS, TO THE REICH MINISTER OF ECONOMICS, 4 NOVEMBER 1943, DECLARING THAT DURING THE WAR INDUSTRIAL ENTERPRISES SHOULD NOT BE REGARDED AS ECONOMICALLY INTERESTED IN ACQUIRING ENEMY PROPERTY

Copy

The Manager of the Reich Chamber of Economics

4 November 1943

V. 1544/43

To the Reich Minister of Economics, Berlin

Subject: Liquidation of enemy property.

Dear Sir,

May I be permitted to refer to the conversation between you and Generaldirektor Zangen on the above subject? The Select Advisory Committee of the Reich Chamber of Economics dealt with this question in its last meeting. I may be permitted to explain to you the conception of the representatives of industrial economy as it was unanimously represented in the Select Advisory Committee of the Reich Chamber of Economics. The Reich Chamber of Economics knows very well that a predominantly *political* issue is involved in these questions, the judgment of which depends also to a great extent upon the attitude of the enemy countries. The Reich Chamber of Economics is neither authorized nor in the position to take up, a definite attitude to this political part of the question, which must only be judged from the standpoint of the Reich leadership. However, the Reich Chamber of Economics feels the obligation to point out the *economic* viewpoints connected with the execution of liquidation measures, which, in its opinion, must also be taken into account. If, as is variously stated, regard will also be had, in the planning

of any liquidation measures, to the alleged wishes of industrial circles in this respect, the Reich Chamber of Economics considers it important to point out that it is not the desire of the Reich Chamber of Economics, i.e., the authority representing the industrial economy, that during the war the industrial enterprises should be regarded as economically interested parties in the acquisition of enemy property. The reasons for this attitude are exclusively of an *economic* nature. First, the acquisition of enemy property involves in most cases, especially in the case of large, economically important objects, a great number of risks, necessitated by war economic conditions, for any German enterprise possibly considering the acquisition. These risks, regarded from the standpoint of future economic returns, would render the acquisition in many respects a speculative business, and for this reason alone, leading and serious enterprises of the German economy of themselves could manifest no economic interest in such acquisition during the war. Moreover, the connections and rights deriving from *contracts* must also be taken into consideration from the purely economic point of view in the execution of such liquidation measures, especially in view of the magnitude and importance of the objects which are often concerned. Such connections and rights frequently extend to neutral or friendly countries abroad, and may not be threatened by a possible liquidation without grave economic and political disadvantages, both now and with regard to future economic developments. Primarily, however, the problem of a *just disposition* of confiscated property, *which answers the requirements of national economy,* must be taken into consideration in the execution of liquidation measures, for urgent reasons of importance to the total economy. The Reich Chamber of Economics believes itself to be in basic agreement with the Reich government in considering that, in the execution of liquidation measures, neither a transfer into state ownership of these sometimes very considerable assets, nor a planless transfer to private, and probably only by chance interested parties can be contemplated. A just solution of this question from the point of view of national economy would, however, meet with considerable difficulties during the war. The leading and important enterprises of the German domestic economy, therefore, do not intend, for the reasons given, to secure for themselves during Germany's present life and death struggle a private advantage over German and international competition by competing for enemy private property.

In order to exclude during the discussion of such measures any possible misinterpretations concerning the attitude of German industrial enterprises toward the purely economic side of this

matter, the Reich Chamber of Economics feels itself obliged to inform you, sir, of this basic conception of the representatives of industrial economy, and to ask you at the same time to take into account as far as possible the political and economic viewpoints described above, unless the political leadership of the Reich for higher political reasons, which as already mentioned the Reich Chamber of Economics is not authorized to judge would nevertheless consider it necessary to authorize by decree the liquidation of enemy property as an administrative measure.

I have sent copies of this letter to the Reich Minister of Justice, the Reich Foreign Minister, the Reich Minister of Finance, and the Reich Commissioner for Enemy Property.*

Heil Hitler!

Signed: A. PIETZSCH

Copy

The Manager of the
Reich Chamber of Economics
V 1544/43

Berlin NW 7, 4 November 1943
Neue Wilhelmstrasse 9/11

To the Reich Commissioner for Enemy Property
Attention: State Secretary Dr. Krohn
Berlin W 8
Mauerstr. 43

Subject: Liquidation of enemy property.

Dear Sir,

May I ask you to take cognizance of the attached copy of a letter which I addressed to the Reich Minister of Economics on the above matter.

Heil Hitler!

A. PIETZSCH

* The defense offered a certificate with this exhibit by a former official of the Reich Commissioner for Enemy Property that this copy of the document originated from the files of that office.

903432—51——33

2. EXTRACTS FROM TESTIMONY OF PROSECUTION WITNESS ARTHUR RUEMANN*

DIRECT EXAMINATION

MR. MANDELLAUB: Witness, you are Arthur Ruemann?

WITNESS RUEMANN: Yes.

Q. What is your profession?

A. Art historian, doctor of philosophy and at present director of the Municipal Art Collections, Munich.

Q. When did you see the defendant Alfried Krupp von Bohlen?

A. 18 May 1940.

Q. Did you see him then for the first time?

A. Yes, for the first time.

Q. Have you seen him since?

A. No, not until today or yesterday.

Q. Why do you remember the exact date?

A. I can prove it from my diary which I have been writing since 1908 where I recorded this meeting.

Q. You have a regular diary of the past few years?

A. Yes, about every day.

Q. And on the date concerned which you just now mentioned, you find the notation that you saw Alfried von Bohlen?

A. Yes.

Q. Can you give us a short reading from your diary?

A. I arrived in Duesseldorf early in the morning. At noon and in the afternoon I visited an acquaintance named Luebs together with a director—I wrote K and a question mark after it because I often didn't understand the name when we were introduced. He was director of Henkel. Further a Mr. Kevenaar was present and A. Bohlen. That is all I wrote down on this matter.

Q. You didn't know that you would meet Mr. von Bohlen on this date in Duesseldorf?

A. No, I learned that only when, during the noon meal, Alfried Krupp von Bohlen apparently telephoned and Mr. Luebs told me, "The young Krupp will come here." He may have said, "The young Krupp von Bohlen will come later," I don't remember exactly.

Q. Had you been asked to lunch by Mr. Luebs?

A. Yes, together with the other two gentlemen.

Q. Did Alfried Krupp come during lunch?

A. No, shortly afterwards.

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* Complete testimony is recorded in mimeographed transcript, 22 January 1948, pp. 2058–2084.

Q. You ate the noon meal without Mr. von Bohlen?

A. Yes.

Q. Approximately when did Mr. von Bohlen join your company?

A. Shortly before 2 o'clock because then the five of us went to a small table and listened to the radio news.

Q. When von Bohlen joined your company was he introduced to you?

A. He was introduced to me as Mr. von Bohlen or Mr. Krupp von Bohlen. I don't remember exactly. At any rate, I assumed that he was the oldest son or the son of the house of Krupp von Bohlen.

Q. Can you today, after all these years, point out this gentlemen when looking at the defendants?

A. Yes. But quite frankly, I am a little prejudiced because I know that Mr. von Bohlen is sitting at the left hand side.

May I ask that Mr. von Bohlen rise from his seat? [The defendant rose.] Today he seems much thinner and much taller than he seemed then. I can't deny that. But his face is familiar to me and I can remember that it might have been he whom I met.

Q. What happened when lunch had been finished and Mr. von Bohlen joined your company and you retired from—from the lunch table?

A. We went to an adjoining room, sat down at a small smoking table; someone opened a map and we listened to news on the radio.

Q. That was the time when the radio sent out news?

A. Yes.

Q. What news did you listen to?

A. The news about the advance in Belgium.

Q. About the advance into Belgium. Was it the advance of the German troops into Belgium?

A. Yes, the advance of the German troops in Belgium.

Q. What did this group around the smoking table then do?

A. They followed with their fingers on the map the advance of our troops.

Q. Was it a map?

A. Yes, a very exact map.

Q. Who brought this map to the table?

A. Mr. Luebs, the host.

Q. The host?

A. Yes, the host.

Q. The host brought a map to the table and all those present with the aid of this man followed the advance of German troops?

A. Yes.

Q. What conversation developed from this?

A. During the news we didn't talk much, however, there must have been some news which was to the effect that in Holland the situation had so consolidated that there was a possibility that outstanding members of the economy would be able to travel there now and—if I may continue, if you please—the tension of these gentlemen grew perceptibly; the radio was shut off or was lowered and now the four gentlemen, I was standing behind them, the other four were sitting around the table and with their fingers pointed to certain places in Holland which I can't repeat now. I remember to have heard Leyden once, but I don't know any other locations now. If I mention some names now, don't take that as actual facts but simply as illustration of what I mean. One said, and I don't even know who it was because all four talked pretty excitedly and with great intensity. One of them said, "here in", well let's say village A—"there is Mr. Mayer"—and these names, of course, are fictitious too, they are not the actual names mentioned—"this village is yours," and in B—

Q. I think you did say this village but this man is yours? Please continue.

A. "Here is village B; there is Mueller; he is yours, and there is Mr. Schmidt, or Huber, or somebody, he has two plants, well, we will have him arrested" and so it went on.

Q. Was it your impression that these were persons belonging to the industry of the occupied territory who were discussed there?

A. Without doubt.

Q. They were industrialists or economists who were in the territories occupied by the Germans?

A. Yes.

Q. And these gentlemen present behind whom you were standing, discussed among themselves the division of the possible places of interests?

A. Yes.

Q. Was it clearly expressed that these were industrialists?

A. Without a doubt.

Q. You couldn't have been mistaken?

A. No.

Q. Were factories named?

A. It's possible. I'm not certain anymore whether factories were named. At any rate, the executives and the factory owners, were mentioned by name and from the fact that it was said, "this one is yours, that one is yours, that one we will have arrested—he has two factories," from that I had to conclude that these were industrial installations and some sort of industrial plants.

Q. These were industrial objects?

A. Yes.

Q. You said before that you don't exactly remember what, in detail, the individuals in this group said.

A. I don't remember. I only know that all four of them were talking to each other with equal interest and gave each other these tips, so to speak, without apparently remembering that I was standing behind them.

Q. They felt to be among themselves and were not mindful of some outsider present?

A. I had this impression. I was completely out of the discussion and I was utterly disgusted with the behavior of the four gentlemen who before had seemed very sympathetic and nice and, since I was their superior by about 20 years, I might say young men. I was amazed with what ruthlessness these people, all of whom were educated persons, divided people and property of a foreign country. I was so disgusted that I put my hand on the shoulder of my host and said, and I remember the exact wording, "Mr. Luebs, may I take my leave. I don't seem to be in the right place here."

Q. You were particularly impressed by the sudden change in the character or in the remarks of those gentlemen present, who seemed first thoroughly sympathetic and decent, educated, and normal people?

A. Definitely.

Q. And suddenly, when the question of obtaining certain objects in occupied territory arose, a complete metamorphosis took place?

A. Yes, I must use the expression and it is a very strong expression, they resembled vultures gathered around their booty and you may believe that a man like I, an art historian, who had dedicated his life to the preservation of culture was bound to be very much shaken by this.

Q. Witness, when you told your host that apparently you weren't in the right place and therefore wanted to retire, did your host let you go?

A. Yes, at once. He said goodbye to me in a very friendly manner, I offered him a picture for sale. He was an art collector, and a very good one too, and this rather abrupt exit had made me think that possibly the deal would not be closed; at that time I was not in a very good position as art historian and writer, as I had been eliminated from business by the Third Reich, and I thought I had lost this deal which was vital to me, but at that moment I didn't care at all.

Q. Did you sell this picture after all?

A. Yes, I sold it, and a few weeks later the money arrived in Munich.

Q. What happened at the moment when you left, or immediately before you left?

A. All three gentlemen got up. Mr. Luebs was already standing, shook me by the hand and then sat down again to their map.

Q. Were further steps taken in order to execute the plans mentioned?

A. Meanwhile Mr. Luebs had a telephone conversation, probably with his private office or his business office, to the effect that the military office concerned should obtain passports so that they might leave for Holland on the very same day, that is two men, Mr. Luebs for sure; and I learned on the next day when I visited his sick wife that he had left for Holland. Whether the second gentleman was Mr. Kevenaar or Mr. von Bohlen, I don't know.

Q. Then you don't know whether or when Mr. von Bohlen left for Holland?

A. No, I don't.

Q. Thank you, Witness.

JUDGE WILKINS, Presiding: Any cross-examination?

CROSS-EXAMINATION

* * * * * * *

DR. KRANZBUEHLER: Can you tell me for how many pictures you acted as agent during the war?

WITNESS RUEMANN: No, I can't. There were very, very, very few. In the same year 1940–1941, I had a commission here in Nuernberg from the heirs of a woman who had committed suicide in 1938, the wife of a certain Stadtrat Suessheim, to appraise the value of pictures for a brother living in America and to sell them.

Q. I don't think I asked you about what you did in detail, only the number, and you said that you can't answer?

A. No, I can't.

Q. If you had nothing to do with the sale or the arranging for a sale of pictures from occupied countries, can you tell me why you were called as a witness on the purchase of art objects for the firm of Krupp?

A. I can't answer that. I assume today that I was asked to come here as a person of some prominence in Munich art circles.

Q. How often did you help Mr. Luebs obtain pictures?

A. That was the only time.

Q. So you don't know Mr. Luebs very well?

A. I knew Mr. Luebs very well because his father-in-law was a close friend of mine from childhood, and I feel like a father toward his wife.

Q. Then you also know his personality and his character?

A. Well, to say I know him like that is a little difficult. Altogether I met Mr. Luebs perhaps five times. Whether one can say one knows a person after having met him five times, I don't know. I don't think one knows him completely. I wouldn't have expected that of him, what he did then, so you see, it does not follow that one knows a person.

Q. Do you know for which firm Mr. Luebs was working, or which firm he had an interest in?

A. As far as I know he was a Betriebsfuehrer (plant manager) of Henkel-Persil in Duesseldorf.

Q. Will you tell the Court what this firm produced?

A. During my visit in Duesseldorf, because of a meeting which Mr. Luebs attended, I was led through part of the factory and had occasion to see how this washing powder Ata was made. All these things amused me very much, how it was done and how nicely it was done, but during a conversation I heard something about glycerine. In these matters I know so little, I am so untrained in technical matters that I know nothing about it, as for what is was used. I knew that the plant was vital to the military economy because Mr. Luebs to my knowledge was a Wehrwirtschaftsfuehrer (military economy leader).

Q. Isn't it correct that Henkel produces soap flakes and soap powder?

A. Yes, Persil which was the trade name.

Q. Where do you think lies the military economic importance of soap flakes?

A. Well, soap flakes may not have military economic importance; however, the factory might have produced other things, that I don't know.

Q. You don't know.

A. No. I only heard that glycerine was used, and I also heard that glycerine had something to do with explosives or weapons. Well, I don't know anything about it.

Q. Aren't you a little mixed up with nitroglycerine?

A. Yes, it might be. I just now told you that I know nothing about these matters.

Q. You have no conception of industrial connections or industrial relations?

A. No.

Q. Perhaps you can tell us whether the things produced by Henkel, I mean soap flakes, had anything to do with what Krupp produced?

A. No, I can't, because I don't know what they produced.

* * * * * * *

Q. Witness, I'd like you to tell me whether each of the four gentlemen said to each of the other four gentlemen, "This factory belongs to you"?

A. Yes, whether they said exactly this or whether the one said, "Let's have him arrested," I can't exactly tell you; and I don't know what the individual said and to which individual.

Q. Could you say that Mr. von Bohlen said to anyone, "This factory is yours"?

A. Yes, I can.

Q. To whom did he say that?

A. He might have said it to Mr. Luebs, he might have said it to this Mr. Kevenaar.

Q. Could you say that Mr. Luebs said to any one of the gentlemen, "This factory is yours"?

A. Yes, I can say that, too.

Q. Could you say that the director named "K" said to one of the other gentlemen, "This factory is yours"?

A. I am not quite sure whether he did because this gentleman according to my observation was the most passive in the whole affair. But then he was the most unimportant of them, not one of the high-ups, because after all he was only a director.

Q. Could you say that the fourth gentleman said to any of the other gentlemen, "This factory is yours"?

A. That I can't say.

Q. So you only know, and I assume know definitely only of Mr. von Bohlen and Mr. Luebs?

A. But also of this Mr. Kevenaar.

Q. I believe you just said now, that you are not sure about Mr. Kevenaar.

A. I said I don't know of this Director K, the man whom I named Director K with the questionmark behind it. That was the fourth gentleman.

Q. I beg your pardon, I misunderstood you. You do know then that three of these gentlemen, that each of the three gentlemen said once, "This factory is yours"?

A. Whether he said it once or several times, that I can't say after 8 years have gone by.

Q. Well, let's say at least once?

A. Yes, at least once.

Q. Please tell me then concerning which factory Mr. von Bohlen said "this one is yours"?

A. I can't say because I don't remember the names. You can imagine that a man like I who had to witness such a thing and then as a guest, that he should be a little bit excited, so that he couldn't remember names anymore.

Q. Professor—

A. I am not a professor.

Q. If in a conversation among artists one points to a picture and says, "This picture belongs to you," would you then get excited?

A. That depends on the situation.

Q. Where is the difference? When an artist points to a picture and when an industrialist points to a factory?

A. As I told you, it depends on the situation and probably it also depends on the momentary state of mind.

Q. I don't understand where the difference is supposed to be, but I want to formulate the question this way. From the beginning, did you not assume that none of the factories actually belonged to any of these industrialists?

A. If a man—I don't know who said that—but when a man says, "this," let's call him Mayer, "this Mayer in Leyden has two factories, let's have him arrested." Then I know exactly that this factory belongs neither to Mr. Krupp nor Mr. Luebs, nor Mr. Kevenaar, but that it belongs to Mr. Mayer, after all I roughly knew the practice of those times.

Q. I didn't ask you about the arrests. I asked you about the words "This factory is yours," and you said that each one of them said it at least once, that is, altogether about at least three different factories. On what do you base your opinion or assertion that the factory did not belong to the person by whom it was said?

A. From the whole atmosphere. From this lust for booty with which these gentlemen sat there and negotiated and pointed with their fingers to the map and described the ways which they would take afterwards. As a sensitive person I feel such things, that there is something not quite right with this. Neither do I think that these businessmen or industrialists owned so many factories in Holland at that time. And I heard later that the firm of Luebs or rather the firm of Henkel finally had 3,500 properties abroad. That was mentioned at some time in a gathering. I don't think that that was the original state of affairs of the firm.

* * * * * * *

D. The Austin Plant in Liancourt, France

I. AFFIDAVIT AND TESTIMONY OF PROSECUTION WITNESS MILOS CELAP

TRANSLATION OF DOCUMENT NIK-10590
PROSECUTION EXHIBIT 662

AFFIDAVIT OF MILOS CELAP, 24 JULY 1947, CONCERNING THE HISTORY OF LIANCOURT PLANT OF THE SOCIÉTÉ ANONYME AUSTIN, TOGETHER WITH A LETTER WRITTEN FROM PRISON BY ROBERT ROTHSCHILD*

After having been duly sworn in, I, Milos Celap, declare that I shall tell the truth, the whole truth, and nothing but the truth, and that I state the following under oath, voluntarily and without coercion:

I was born on 27 June 1909 at Jamena (Yugoslavia). I live at 42, rue Victor Hugo, Liancourt (Oise). I am director general and president of the Société Anonyme [joint-stock company] Austin and the brother-in-law of Mr. Robert Rothschild who married my sister, Mrs. Rothschild, née Vera Celap.

The majority of the stocks and shares (91 percent) of the Société Anonyme Austin in Liancourt (Oise) belonged since May 1939 to Mr. Robert Rothschild, an industrialist and a citizen of Yugoslavia.

Since the same date Mr. Rothschild was administrator-deputy of the Société Austin. This firm having a capital of 3,000,000 francs specialized in the manufacture of agricultural tractors.

In June 1940, upon the order of the French authorities, Mr. Rothschild moved into the interior of France taking with him all of his personnel.

The factory in Liancourt was occupied by the German troops as soon as they reached Liancourt at the beginning of June 1940.

After the armistice I was sent back, by Mr. Rothschild, to Liancourt in order to again start up the usual production, namely the manufacture of tractors. Mr. Rothschild could not return, himself, because the Chamber of Commerce in Lyon, which issued travel orders at this time, advised him not to go back into the zone occupied by the Germans as he was a Jew.

When I arrived I found the factory occupied by the German troops (Unit No. 06.263 under the command of Lieutenant Broeck-

* When this affidavit was offered in evidence, the prosecution read extensively from it *(Tr. pp. 1725–1731.)* A few days later Celap appeared as a witness for the prosecution. Substantial extracts from his testimony are reproduced immediately below.

ler). When I asked him to return the factory, Broeckler replied to me that that was out of the question in view of the fact that the firm belonged to Mr. Rothschild, a Jew. Broeckler paid no attention to his Yugoslav citizenship.

In the course of the discussions Broeckler suggested the following solution:

Mr. Rothschild was to resign as administrator-deputy and transfer his stocks and shares to an Aryan and he even suggested that this be done in my name.

I then went back to Lyon in order to ask for Mr. Rothschild's decision. He finally accepted in the interest of his family, in order to save his heritage and also in the interest of the personnel and workers of the factory and of his agricultural clients in France.

Following this decision, I was appointed in his place as administrator-deputy by the administrative board, and at the same time Mr. Rothschild legally transferred to me all the stocks and shares that he owned.

When these formalities were completed I again went back to Broeckler who approved them and on 19 October 1940, he put at my disposal the factory of the company at Liancourt which I immediately put back into operation.

On 28 December 1940, a certain Lucien Segond presented himself at the factory saying he was the provisional administrator (Commissaire Gerant) of the Société Austin, nominated to this post by virtue of a German decree on Jewish enterprises or enterprises under Jewish influence.

In the light of this decree, transfers which had been made after 23 May 1940 were not considered valid. Consequently, the transfer of the stocks and shares of Mr. Rothschild to my name was not recognized by the Germans. This was officially confirmed on 15 April 1941. (*NIK–10587, Pros. Ex. 664.*) *

In the period which followed, several provisional administrators were nominated, either by the Germans or by Vichy.

In 1942 this position was held by Mr. Maurice Erhard. Until then the normal production of the factory consisted of new tractors and spare parts for tractors already in use.

I was obliged to leave the occupied zone on 6 April 1941, that is to say, at the time when the Germans attacked Yugoslavia, as I was a citizen of Yugoslavia myself. I settled down in the non-occupied zone and did not return to Liancourt before October 1944, after the liberation.

Upon my return I found the factory occupied by Mr. Paramythioti who after the liberation had been nominated adminis-

* This document, the official notice to Milos Celap, is reproduced below in this section.

trator and sequestrator of the Krupp property, because during the occupation the factory had been leased and the material sold to Friedrich Krupp A. G., Essen.

The offices of the Société Austin which had been ousted by the Krupp firm were reestablished in a little building in Liancourt.

Mr. Rothschild, who in July 1940 had fled to Lyon, remained in this city until October 1942.

Ever since the first provisional administrator was appointed, Mr. Rothschild had always contested the measures taken by the Germans and by Vichy against him by referring to his Yugoslav citizenship. In September 1942 after the authorities in Vichy had forced him to reside at St. Felicien (Ardeche), Mr. Rothschild tried to escape from the threats to which he was exposed and attempted to reach Portugal via Spain. Unfortunately he was arrested in Spain right after having crossed the border, was put in prison and at the end was returned to France.

He settled down in St. Felicien from where, 2 months later, he was sent to the camp for foreign workers at St. Privat (Ardeche) where he stayed 3 weeks. Due to my representations with the Prefect of the Ardeche Department he was then discharged from the camp and went to live in Cleon d'Andran (Drone) in the zone occupied at that time by the Italians.

He stayed in Cleon d'Andran until February 1944 when he was arrested by Andre Francis and his gang of the Parti Populaire Francais and delivered into the hands of the Germans in the prison of Montluc in Lyon.

After a short stay at Montluc and at Drancy he was sent on 7 March 1944 to Auschwitz from which camp he never returned nor ever gave a sign of life.

During his short stay in the prison of Montluc, Mr. Rothschild succeeded in sending a short letter to our mutual friend, Mr. (Maitre) Levigne in Lyon.

The letter, which I myself read, carried the following postscriptum:

"This blow is due to Damour and Sandre. Precise information." *

Mr. Rothschild, therefore, had the proof in prison that he had been denounced by Damour and Sandre.

Throughout the German occupation Mr. Damour was an attorney of the Commissariat for Jewish Affairs at Lyon, and in this capacity he had to deal with Mr. Rothschild, who criticized all the provisional administrators appointed by the Germans and by

* A photostatic copy of Mr. Rothshild's letter from prison was attached to this affidavit, and a translation thereof is reproduced at the end of this affidavit.

Vichy for the companies in which he had interests and also for his private property.

Sandre, Richard, was appointed provisional administrator of the Société Austin on 15 December 1942 by the Vichy authorities after the departure of Mr. Erhard, Maurice.

Having seen after the liberation all the documents concerning this affair, I know that Erhard was not *persona grata* with Krupp's, and that he was forced to resign upon the demand of Leon Schmitt, an authorized representative of the Krupp firm in France.

It is a fact that Sandre was *persona grata* with Krupp's, because his appointment was accepted, and he held this position until the Germans left in August 1944.

In February 1944, about 10 days before the arrest of Mr. Rothschild, Sandre paid the latter a visit at Cleon d'Andran. I was present at this meeting. Sandre had come in order to get some information from Mr. Rothschild concerning the financial situation as a whole of the Société Austin, which had remained in Mr. Rothschild's possession since he had left Liancourt in June 1940.

Mr. Rothschild refused to give any information whatsoever, whereupon Sandre immediately drew the attention of Mr. Rothschild to the disagreeable consequences that this refusal might have for him. In spite of this, Mr. Rothschild remained firm and Sandre left without achieving his aim, but repeating his threats.

Sandre left for Lyon, where together with Mr. Damour, he went to see Mr. Troccon, who represented the interests of Mr. Rothschild. He asked Mr. Troccon the same thing he asked Mr. Rothschild and he tried here, too, to do some blackmailing. This was told me by Mr. Troccon himself.

Mr. Troccon, not being able to decide what to do, asked Mr. Rothschild for instructions, but the latter maintained his point of view.

A few days later, on 21 February 1944, Mr. Rothschild was arrested and later deported.

Mr. Sandre, in view of his position with the Commissariat for Jewish Affairs, must have known about the intention of the Krupp firm to buy the factory at Liancourt, which had only been leased to Krupp. His efforts to obtain information from Mr. Rothschild as to the financial position of the company are the basic preliminary steps which would be taken by any prospective buyer of the company and this holds true for the probable buyer Krupp, too.

I have carefully read each one of the four pages of this affidavit, have countersigned each correction with my initials, and I

hereby certify that this affidavit contains only the pure truth.
Liancourt, 24 July 1947

[Signature] M. CELAP

[Enclosure]

I received two * * * but no news.

The parcels may be deposited at the gate, with the name of the addressee, but they should not be too cumbersome.

It is necessary to have some money here; with that, one can get along.

I would advise Milos to write to Dr. K. at Hannover in both Vera's and his own name, and ask for K's intervention.

I think it would even be good if he would offer his services to the firm. Otherwise he will be arrested one day and forced to do so under much more unfavorable conditions.

As for Vera, I think it would be best if she went back to Lyon. I think the Prefecture will allow that.

Send me some news by the bearer of this, with the remainder of the money. I have also asked Dr. W. for some.

I am sorry to cause you so much trouble and annoyance. Thanks and sincere friendship.

[SIGNED] ROBERT

This blow is due to Damour and Sandre. Precise information.

I certify that this is a photostat of the last letter sent by Mister Robert Rothschild to the Notary Public Levigne at Lyon. I personally have seen the original, which is in the hands of Mrs. Rothschild. This photocopy is a true copy of the original.
Liancourt, 24 July 1947

[Signed] MILOS CELAP

EXTRACTS FROM THE TESTIMONY OF THE PROSECUTION WITNESS MILOS CELAP*

DIRECT EXAMINATION:

* * * * * * *

MR. MANDELLAUB: Was Krupp interested in buying up the shares of the Liancourt factory?

* The witness Celap executed a long affidavit, Document NIK-10590, Prosecution Exhibit 662, which is reproduced immediately above. Since this affidavit covers the history of the Austin-Liancourt plant in some detail, most of the direct examination of Celap has been omitted. Celap's complete testimony is recorded in mimeographed transcript, 26, 27 January 1948, pp. 2398-2438.

WITNESS CELAP: First of all, Krupp wanted the factory, and bought the machinery; then he had an interest, too, in getting the shares because that would have given him the sole right of disposal with regard to Liancourt.

Q. You say they bought the machines?

A. They bought the machines but they paid a price which was not at all in line with the real value.

Q. Did they have the consent of Mr. Rothschild for this purchase?

A. No, they never got the approval of Rothschild. They bought it from the temporary administration, and applied pressure while doing so.

Q. And Mr. Rothschild never recognized this as being legal?

A. No, never.

Q. When Sandre made inquiries concerning the financial status of the Austin factory—was, at that time, Krupp already interested in buying the shares of Liancourt?

A. Yes, and I have seen documents proving that Krupp took an interest in the buying up of the shares.

Q. When Mr. Sandre went to see Mr. Rothschild, he wanted financial information from Mr. Rothschild in order to be able to assess the price of the shares, is that correct?

A. Yes, precisely, because the books and the whole accounting data were in the hands of Mr. Rothschild, who had taken them along during the exodus in 1940.

Q. Where was Mr. Rothschild then?

A. When?

Q. When Sandre went to see him.

A. It was south of Lyon, in the Department of Dauphine.

Q. At that time were you and Mr. Rothschild together?

A. Yes, and also Mrs. Rothschild.

Q. What date was that, approximately?

A. Sandre came on or about the 5th or 6th of February, 1944.

Q. At the time Krupp was already established at Liancourt, isn't that correct?

A. Yes, Krupp was already established at Liancourt.

Q. Did Mr. Rothschild give the information to Mr. Sandre?

A. No, he always refused to do that.

Q. Did Mr. Rothschild know why Sandre wanted this information?

A. Sandre had told Rothschild that there were some buyers for the shares of the Austin firm, but as Krupp already had the lease and the machines, Rothschild knew that only Krupp could be the firm in question. May I add something?

Q. Yes, please.

A. I don't see any logic in somebody else trying to buy the shares of the Austin factory at a time when Krupp was already occupying all the machine shops and had all the machines of the Austin factory in their possession.

Q. When Mr. Rothschild did not agree to give the information, was he threatened by Sandre?

A. Yes, he threatened him several times.

Q. Were you present when these threats were made?

A. Yes.

Q. Do you remember what he said?

A. "If you don't want to give me that information, well, you can just imagine what will happen to you."

Q. And what did happen?

A. On 21 February 1944, Rothschild was arrested; he was then deported first to Lyon, then to the Vancy camp; and from there, on 7 March 1944, he was deported to Auschwitz, from where he never returned.

JUDGE WILKINS: Mr. Mandellaub, with whom was the conversation at the time of the threats? I am not sure that I heard.

MR. MANDELLAUB: With whom?

JUDGE WILKINS: You just brought out that he was threatened, that some dire consequences would take place if he didn't agree. Now, with whom was that conversation, and by whom were the threats made?

MR. MANDELLAUB: With Sandre, he was the commissioner who uttered these threats to Mr. Rothschild.

Was the disappearance of Rothschild in the interest of the Krupp factory in Liancourt?

WITNESS CELAP: I would say yes, because Rothschild emphatically refused to negotiate with Krupp.

Q. Did you succeed in getting in touch with Mr. Rothschild during the time when Mr. Rothschild was in the camp still in France?

A. Yes. When Mr. Rothschild was in the Montluc prison he sent me a letter through the service of a mutual friend, and in the postscript of the letter he charged Sandre and Damour—Damour was the attorney of the Commissioner for Jewish Questions at Lyon—he charged these two with having arranged his arrest. I have the letter here, and the last two sentences say the whole affair was arranged by Damour and Sandre. I have exact information to that effect.*

* * * * * * *

* This letter is reproduced above in this section following Milos Celap's affidavit (*NIK-10590, Pros. Ex. 662*).

DR. BEHLING (counsel for the defendant Loeser): Witness, how large was the capital of your firm?

WITNESS CELAP: Three million French francs.

Q. And 91 percent of the shares were in the hands of Mr. Rothschild, you state?

A. Yes.

Q. Who held the other remaining percentage?

A. There were about three or four Frenchmen and a group of perhaps one hundred Englishmen who altogether had 1,200 shares out of the 30,000 existing.

Q. I understand, witness, that you also speak German. Would it not be easier for the proceedings here if you would answer in German?

A. No, I prefer to speak French.

Q. Of course, I only suggested it in order to make matters easier here. When was the factory founded?

A. It was founded in 1919 by the Austin firm.

Q. What did the production consist of?

A. Production of agricultural tractors.

Q. Was that your original program or did that develop in the later years, only?

A. It developed as time went on and the principal activity of the factory lay between 1927 and 1930.

Q. How large a staff did you have in 1940?

A. In June 1940, when I left the factory, we had about 180 workers and employees.

Q. How big was the output in 1940?

A. It is very hard to talk of output in 1940, because during that period we worked for the armed forces for national defense. Only about 10 percent of our production catered to the normal production branches.

Q. In other words, you also worked for the French armed forces?

A. During the war.

Q. What did you supply to the army?

A. Grenades, shells.

Q. So your original peacetime production had been changed into a definite wartime production by the French armed forces, is that right?

A. Not entirely, because as I said, 10 percent of our production continued to manufacture tractor spare parts.

Q. Did you ever during the German occupation produce shells and grenades in your factory?

903432—51——34

A. Unfortunately, I am in no position to tell you all that happened in the factory during the whole occupation because the factory was occupied in June 1940 by the German armed forces and remained occupied until 19 October 1940, and between those two dates no production whatsoever took place. On 19 October 1940 the factory was released, and it was handed over to me by the Kommandantura of Liancourt, but my authority in the factory lasted only 2 months. After 2 months I was dismissed and the temporary administrator was appointed and for the rest of the occupation I had no right to enter the factory.

MR. MANDELLAUB: I think the translator made a mistake in the date of the liberation. You said 1940.

THE INTERPRETER: The factory was released by the German armed forces 19 October 1940, when it was handed over by the Kommandantura of Liancourt. I repeat the witness' statement: I could not give you any information as to what happened in the factory during the war. In June 1940, the factory was occupied by the German armed forces. On 19 October 1940 the German armed forces withdrew from the factory, and the factory was handed over to me by the Kommandantura of Liancourt. However, I stayed in the factory only for 2 months, after which I was dismissed, and the temporary administrator was appointed. After my dismissal from the factory, to the end of the war, I had no right to enter the factory.

DR. BEHLING: Witness, during that period in which you were in charge of the factory, were any grenades or shells produced at all?

WITNESS CELAP: No, all we did during those 2 months was to clean up the disorder which had been created during the 4 months of occupation by the German armed forces.

Q. How do you explain that disorder?

A. If you want to know how that disorder came about, well, the factory was occupied by the German armed forces. They took their horses there. Also all the archives we had not been able to take along were destroyed, and there were about 12 inches of paper, covering the floor. Also, in the assembly hall there was disorder because the tools had been carted away. Especially the smaller tools had been looted, so we had to clean up that mess.

Q. Had the German Army dismantled any machines?

A. No, they did not take any machines away. They had only taken the shells which remained from our previous war production.

Q. So you mean to assert, Witness, that after the German Army had left, all the machines had been left behind in proper working order?

A. The machines were there, all right, but they had not been cared for and had not been maintained during those 4 months.

Q. Were the machines heavily damaged?

A. One cannot say they suffered really great damage, but certain parts had not been greased; therefore, there was a lot of oxide everywhere.

Q. Apart from that, a number of tools had been stolen, is that correct?

A. Quite a lot of the smaller tools, like screw drivers and tools of that kind, had been stolen but there were still some of them left.

Q. When did the German Army occupy the factory?

A. I wasn't there, myself, because on the order of the military authorities I had left Liancourt on 9 June 1940, but according to people who told me about it, the factory must have been occupied on or about the 14th or 15th of June.

Q. Witness, you left the factory only after it had been occupied, isn't that right?

A. I don't know what makes you think that. I left on 9 June. The Germans arrived on the 14th or 15th.

Q. Well, that means that you left the factory 4 or 5 days after the Germans had arrived?

A. I can only repeat for your benefit that I left on 9 June, and the Germans arrived on the 14th or 15th, therefore, the Germans arrived 6 days after I left the factory.

Q. Did you flee from the fighting?

A. I was working in the factory as an engineer and all the personnel had the order from the military authorities to withdraw before the advancing German troops.

Q. This order was issued by the French military authorities, is that correct?

A. Yes.

Q. Did Mr. Rothschild also leave?

A. Yes.

Q. When did you return to Liancourt?

A. On 25 July 1940.

Q. Did you then start negotiations with the German authorities?

A. Since I saw that the factory was occupied by the German troops and since I had the intention of resuming the operation of the factory and of resuming its normal production, I had to start negotiations with the Liancourt Kommandantura.

Q. Did you purchase these shares from your brother-in-law, Mr. Rothschild?

A. Yes, I did, and that was on the advice of the commander of the Liancourt Kommandantura.

Q. Where and to whom did you pay the money?

A. I signed a draft to my brother-in-law.

Q. Was this bill ever redeemed?

A. No, because a few months later, that is in April 1941, this sale was already considered void.

Q. On 19 October 1940, if I understood you rightly, you were given permission by the local commander to take over the factory; is that correct?

A. Yes, that is correct.

Q. How long and during what period did you manage the factory?

A. Until 28 December 1940, at which time the first temporary administrator, Commissioner Gerant, was appointed in accordance with the German laws existing at that time.

Q. Who appointed the temporary administrator?

A. On the strength of the German decrees, this administrator was appointed by the Prefect of the Department of Oise.

Q. Which decree is that?

A. The anti-Jewish decree, I can't tell you the name.

Q. Is it not a fact that this decree was issued by the French Government?

A. No, that is not correct, because in the northern zone occupied by the Germans the provisional administrators were appointed on the strength of laws issued by the Germans.

Q. Who appointed these provisional administrators?

A. As I said, the Prefect of the Oise Department.

Q. The Prefect of the district was a French authority, wasn't he?

A. Yes, at least on paper. But the appointment of this provisional administrator was on the strength of German decrees.

Q. Decrees by the military authorities?

A. Yes.

Q. So in other words on 28 December 1940, Mr. Gerant became the first provisional administrator of the factory. Now, did this Mr. Gerant start production again?

A. No, there was practically no production during the period he was there, because all the time he remained was about 13 days.

Q. When did you leave France?

A. I remained in France during the whole war.

Q. Did you not leave France on 6 April 1941, because of the war with Yugoslavia?

A. No, I only left the occupied zone at that time for the unoccupied zone with the intention of going to Yugoslavia and fighting there. But as there was no possibility of doing so, I remained in France during the whole war.

Q. But at any rate on 6 April 1941, you left Liancourt and did not return until 1944, is that correct?

A. I left Liancourt a few weeks before the date you just gave, because I was not on very good terms with the second administrator and I left Liancourt with my wife in order to go to Paris and live there; I left Paris on 5 April 1941 for the unoccupied zone and returned to Liancourt only in October 1944 after the liberation.

Q. Who was the successor of Mr. Lucien Segond as provisional administrator?

A. A certain Dormeois who was appointed on 13 January 1941, and remained in his position until 6 November 1941.

Q. And who came after him?

A. After Dormeois, Maurice Erhard was appointed.

Q. So for the period from spring 1941 till fall 1944 you cannot testify from your own knowledge on the facts, is that correct?

A. I wasn't there, that is true. All I can say is what I have heard about the matters and what I have gathered from the documents that I consulted in Paris.

Q. When was normal production resumed in Liancourt?

A. What production do you mean—after the war?

Q. No. I mean after the German occupation.

A. I resumed possession of the factory on 1 August 1945, on the strength of a French law which was issued in May 1945. Until that date, a provisional administrator, or rather an administrator of sequestrated property as they called it at that time was director of the factory, and he managed the factory under a French decree providing for the administration by a receiver of the Krupp properties in France.

Q. I think, Witness, we have misunderstood each other. Is it correct to say that Mr. Maurice Erhard started production again in 1942?

A. It is true that up to the time Krupp took over the factory there was a certain activity on the part of our company.

Q. Therefore, the factory was idle from 1940 until 1942, is that correct?

A. That is not exact. The activity of our factory was perhaps not at its peak, not 100 percent, but it still amounted to about 60 percent of the normal production.

Q. Since when?

A. According to the account books which I have consulted, Dormeois resumed operation between March and April 1941 and developed it progressively.

Q. Witness, you said that in 1942 Krupp showed interest in the

factory and expressed their interest by sending out a Mr. Schmidt. Will you first of all please spell this name of Schmidt?

A. S-c-h-m-i-d-t.

Q. Is that correct, Witness?

A. I think so. I have never seen Mr. Schmidt.

Q. But you are wrong there, because this Mr. Schmitt, as we know from the files, is spelled with two "t's" at the end.

A. That is possible.

Q. Perhaps I may point out to the Tribunal that in my recent examination of the other French witness, a man named Schmidt with "dt" at the end, who was rather important, he was an agent of the German armed forces, played quite a big part. That Schmidt apparently is not identical with the Mr. Schmitt who is mentioned in this proceeding because this Mr. Schmitt is spelled with two "t's" at the end.

JUDGE WILKINS: Don't you think the same individual is the one that is referred to by both witnesses?

DR. BEHLING: No, Your Honor, I don't. I think it is quite out of the question because the one was an agent of the armed forces and this one is supposed to be an employee of Krupp. We have not been able to ascertain where this man worked.

JUDGE WILKINS: What is your position on that, Mr. Mandellaub?

MR. MANDELLAUB: They are two different Schmitts—the one has nothing to do with the other.

DR. BEHLING: Could you tell me when Schmitt first inspected the factory?

WITNESS CELAP: According to the documents, which I found, that must have been toward June 1942.

Q. Do you think it is possible that he may have been there before?

A. I couldn't tell you. I wasn't there during that period.

Q. When was that lease agreement concluded?

A. At the beginning of September 1942, I would say, on or about the second or third of September.

Q. Who was at that time provisional administrator?

A. Maurice Erhard.

Q. In your affidavit (*NIK–10590, Pros. Ex. 662*)* you say that Maurice Erhard was in no way *persona grata* with Krupp. Do you still maintain this opinion?

A. Yes, that was the situation. I could gather it from the documents I have seen in Paris.

Q. Therefore, it seems to be established that Mr. Erhard, who quite obviously represented the interests of your firm, concluded this lease agreement with Krupp?

* Document reproduced above in this section.

A. He did it under pressure by the Commissioner for Jewish Questions, which again was under pressure from Krupp.

Q. How do you know, Witness, that the Commissioner for Jewish Questions, quite obviously a French authority or official, was under the pressure of Krupp?

A. I wouldn't exactly call him a French Government agent. After the liberation in Paris I have seen documents which are proof for what I have just stated.

Q. You will have to explain this a bit more in detail, Witness.

A. Well, if you ask me specific questions, I will answer them.

Q. I think you will have to state your opinion more clearly, or do you know all this only from hearsay?

A. Among the documents I found after the liberation referring to this Commissioner for Jewish Questions, there was a correspondence between the French Ministry for Industrial Production and this office of the Commissioner for Jewish Affairs, addressed to a certain Bourgeois. This Bourgeois, who apparently was still in some way defending the French interests, wrote to the French Ministry for Industrial Production that he couldn't do anything because he was under pressure from Krupp.*

Q. And have you seen that letter?

A. Yes.

Q. But that doesn't mean that you know for certain that this Bourgeois was speaking the truth?

A. I wouldn't know any reason why he shouldn't write the truth.

Q. Oh well, that may be just an assertion on his part.

A. There still remains the fact that at the time when Krupp acquired the Austin factory there were about ten other interested parties who wanted to get their hands on this Austin factory. It was Krupp who succeeded.

Q. Witness, if I understood you correctly, you concluded from documents which you maintain to have seen after 1945 and the identity of which we cannot prove here that Krupp exerted pressure on a certain Mr. Bourgeois, who, in turn, exerted pressure on Mr. Erhard, the administrator of the firm, in order to induce him to conclude this lease; is that correct?

A. All I can do is to affirm and to state again that I have seen those documents. It was not after 1945 as you say. It was in October or November 1944, right after the liberation, when I saw those documents referring to the Commissioner for Jewish Affairs. I can only state that again.

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* For a contemporaneous account by Mr. Stein, one of Krupp's officials in Paris, concerning the role of Mr. Erhard and the Commissioner for the Administration of Jewish Property, Bourgeois, see Document NIK–13002, Prosecution Exhibit 686, reproduced below in this section.

Q. Further records substantiating your assertion that pressure was exerted are not available to you, Witness, are they?

A. I haven't seen any other documents, but the documents I have seen are quite sufficient to prove this fact.

Q. Well, that is one of the tasks of the Court, Witness.

A. Very well.

Q. Is it true, Witness, that by the lease agreement of 3 September 1942 (*NIK–10485, Pros. Ex. 671*)* only the installation was leased?

A. Krupp bought the machine tools. All the rest of the installations were leased to Krupp.

Q. Did the business, the good will, and the patents and licenses remain with the firm?

A. The Austin company had to leave the machine shops and the factory immediately after this agreement. They reserved the trade rights for themselves, that is correct. They could continue the commercial business; however, they had to rely on Krupp as far as the production of spare parts and delivery of the spare parts was concerned. And the lease agreement between Krupp and the Austin company even provided that Krupp undertake to supply the Austin company with spare parts for tractors and also with mechanics to repair the tractors wherever repair was needed; but Krupp did not keep their promise in that point.

Q. What products were produced under this lease agreement by the firm at Liancourt?

A. You asked what parts the Austin Company could produce? The Austin company couldn't produce anything anymore because Krupp was producing the spare parts.

Q. No, no, you misunderstood. What products were produced after the lease agreement had been concluded? In retrospect, since you yourself didn't witness it, tell us what products were manufactured in the Austin factory?

A. You mean what products were manufactured by Krupp in the Austin factory?

Q. Yes, that is what I mean.

A. Certain spare parts and certain foundry products.

Q. Were these products destined for German Wehrmacht agencies in France?

A. What I understood was that you asked me about the products which Krupp produced for Austin within the framework of this lease agreement. Those products which were produced by Krupp for Austin, were meant for agricultural manufacture.

Q. Did Krupp have another manufacture at Austin besides this one?

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* Document reproduced below in this section.

A. I wasn't there—

Q. Thank you.

MR. MANDELLAUB: The witness is still talking.

WITNESS CELAP: But according to what I have heard, the work Krupp did for the benefit of the Austin Company amounted to only 5 percent of the total production.

DR. BEHLING: I didn't quite understand your answer, Witness.

WITNESS CELAP: What I said was that from what I could ascertain when I came back to Liancourt after the liberation, the production of Krupp for the benefit of the Austin Company, that is, the spare parts I just referred to amounted to only about 5 percent of the total production, while 95 percent as for other purposes.

Q. You confirmed to me, Witness, that as early as 1940 merely 10 percent of your production was devoted to civilian, peacetime needs, that is to say, to French civilian consumption. If Krupp then, gave you a chance to devote 5 percent of your production to civilian consumption, then this was quite obliging of them, wasn't it?

A. In 1940, we produced 10 percent, it might have been 15 percent, for civilian needs, but at that time it is certain that our duty was to produce whatever we could for the French national defense. On the other hand, when Krupp freely without any coercion signed the lease agreement, then they undertook the obligation of supplying us with whatever products and whatever spare parts we would need; and I don't see any reason on their part not to comply with this obligation.

Q. Witness, we found out that in 1940, 90 percent of your production served the armed forces of France by manufacturing grenades, etc., and that 10 percent of your production remained for civilian consumption. You said that at the beginning, didn't you? And now you state that your production was mainly used by Krupp and that 5 percent was left for your own business and for civilian consumption, is that right?

A. Yes, that is correct. The only thing I have to add is that when we reached that ratio of production, namely 90 percent for the French armed forces and only 10 percent for the civilian sector, that is to say, during the months of May and June, 1940, at the time of the German offensive against Belgium, Holland, and France, this was done on special instructions from French headquarters. For the rest, as far as the 95 percent and 5 percent of the Krupp production are concerned, that is correct.

Could I add something now?

Q. Go right ahead.

A. I want to add something which I learned right after the liberation. Krupp, at the time of the lease agreement, had under-

taken the obligation of furnishing us with the necessary spare parts, as I mentioned already. On the other hand I found out after the liberation that shortly after this lease agreement, Krupp started selling the machines for producing these spare parts, machines which Krupp had previously purchased from us. Therefore, Krupp deliberately created a situation which made it impossible for them to produce these spare parts and thereby to fulfill the terms of the lease agreement.

Q. Witness, before you spoke of an agent of Krupp's whose name was Schmitt. Did you ever see this Mr. Schmitt's power of attorney?

A. No, I never saw any power of attorney of this Schmitt, but when I looked through the documents of the Commissioner for Jewish Affairs, I saw correspondence and particularly a letter ordering the commissioner to visit the factory and to give instructions to the agent Schmitt.

Q. Between whom was this correspondence?

A. This correspondence was between the office of the Commissioner for Jewish Affairs and the provisional administrator Erhard.

Q. We can't conclude from that that Schmitt was actually authorized to act for the firm of Krupp, can we?

A. I couldn't affirm with certitude what exactly the position was of this man Schmitt with regard to the Krupp firm, but it is a fact that as a result of these negotiations with Schmitt the lease agreement was concluded, and you cannot deny that this man Schmitt existed.

Q. Well, we don't know the nature of his relations, with the firm of Krupp.

A. I just said that this man Schmitt actually existed.

Q. That is possible, but what was his connection with the firm of Krupp? I, for the moment, don't know.

A. Anyhow, Schmitt came to the factory in September 1942 as soon as Krupp took over. He signed many letters, we believe he signed the whole correspondence. He even signed letters addressed to the Austin company. I still have them in my files.

Q. That is known. You then said that in December 1942, there was a change in the office of the provisional administrator, namely, Mr. Erhard was replaced by a certain Mr. Sandre. Who appointed Sandre as provisional administrator?

A. He was appointed by the Office of the Commissioner for Jewish Affairs.

Q. Is that a French office?

A. It was a so-called French agency.

Q. What do you mean by so-called French agency, Witness?

A. It was common knowledge in France that the Commissioner for Jewish affairs did nothing but execute the orders of the Germans.

JUDGE DALY, Presiding: Excuse me, but haven't we been over all this? Isn't this repetitious? I don't want to preclude you, Counsel, from going into anything you want, but it seems to me I have heard these answers from this witness here today when you have been cross-examining him. You do as you want about it. It is just in the interest of time, that is all.

DR. BEHLING: Well, I will take this into account, but as I understood the witness, the previous administrators had been appointed by the local authorities, whereas this is an appointment made by the administrator of Jewish property.

Witness, what makes you state that Sandre was a confidential agent of Krupp's?

WITNESS CELAP: All I know is that Sandre was appointed immediately after the rather dramatic dismissal of Erhard, who was the expert of the Tribunal in Paris, and who was even stricken from the register and blacklisted as expert of the Paris Tribunal. I know that Sandre was friend of Schmitt's, and I also know that Schmitt testified in favor of Sandre during the trial in Paris after the liberation.

Q. Where was this trial?

A. In the Court of Justice, if I remember correctly.

Q. If I understood you correctly, it was a civil lawsuit brought by the firm of Austin against this Sandre?

A. No, the matter was different: Sandre had also been the provisional administrator of other smaller companies.

Q. Well, I don't quite see the connection between this and Sandre's being *persona grata* with the firm of Krupp in Essen.

A. He was the friend of Schmitt's. Schmitt was the agent of Krupp, Essen, and Krupp was the ruling power down there during that period.

Q. That is the conclusion you draw, isn't it?

A. Of course, you may call it a conclusion, because I wasn't there, but it was common knowledge there.

Q. Witness, you continued by saying that on 22 February 1944, that is, more than a year after Sandre had been appointed as the provisional administrator, your brother-in-law was arrested and was finally taken to Auschwitz, from where he never returned. From that, you conclude that he died there. Do you have any exact information concerning your statement?

A. I wasn't there, of course, when he died, if that is what you mean, but I have met a person who was deported at the same time as he was, and he was together with him on the 3 days

and 3 nights of the transport to Auschwitz. They arrived at Auschwitz on or about the night of 10 or 11 March, and out of 1,500 people, 100 men and 30 women were placed to the right; the others were put to the left, and those who remained in the camp were never heard of again. I think that is sufficient explanation.

Q. You know nothing conclusive, Witness?

MR. MANDELLAUB: I would like the witness to have a chance to answer.

JUDGE DALY, Presiding: I hadn't noticed. You must let the witness answer the question before asking another. Maybe you didn't hear him.

WITNESS CELAP: If you want to put it that way, I never heard anything decisive about his fate, except perhaps that since March 1944 he hasn't come back. We never had a sign of life from him, he didn't write, and we have no information, and I think it is a reasonable assumption to say that he will never come back.

DR. BEHLING: Witness, the trial you just described, in which Schmitt was supposed to have made a statement, probably as a witness—this trial was a civil lawsuit, if I understood you correctly, which was brought by several small firms against Sandre?

MR. MANDELLAUB: I think this question is definitely out of the scope of direct examination.

JUDGE DALY, Presiding: Well, the witness did testify that Schmitt was a witness, and this man Sandre, or whatever his name was, I have forgotten his correct name—I think Counsel has a right to ask him what kind of proceeding it was he testified in.

MR. MANDELLAUB: He has asked the question several times.

JUDGE DALY, Presiding: Apparently, I don't know myself, but I don't suppose that anybody else on the Tribunal knows what kind of a proceeding it was. I wasn't able to get anything out of it from the witness' answers.

DR. BEHLING: Therefore, Witness, please answer my question. Can you give me the exact data, that is, tell me what was the nature of the proceedings?

WITNESS CELAP: All I can say is that I think that it was a civil lawsuit instituted on the part of the spoliated company.

Q. Against Sandre, if I understood you?

A. Yes, against Sandre.

Q. Is Sandre still living in Paris today, or in France?

A. I don't know.

Q. In which year did this civil lawsuit take place?

A. I think it was at the beginning of 1945.

Q. Did any one of the relatives of Mr. Rothschild or yourself ever bring a civil suit or prefer charges against Sandre for the deportation of your brother-in-law?

A. Yes, we lodged a complaint with the Chief Prosecutor of the Republic, and an inquiry was started, but unfortunately Sandre had disappeared.

Q. In what state did you find the factory after the Germans left it?

A. I resumed possession of the factory only on the first of August 1945, when it was handed to me by the French Administration of Property. I didn't want to take over the factory before that time, because we would have risked losing our claims for indemnification; we were waiting for the promulgation of the French law according to which we could resume possession of the factory. When this French law was issued on the first of August, I took over the factory and the first thing I found out was that many machines were missing, and particularly machinery specialized for the production of spare parts for tractors. We were then informed that these machines had been sold by Krupp in 1943. I also found that the assembly line was changed, or I would even say nonexistent, which created considerable difficulty for the resumption of activities in our factory. I want to add something. The installation for the production of spare parts I finally found in some corner, all covered with oxide and almost unusable. On the other hand, I found machines in the factory which we didn't have in 1940 before the Germans took over, but very soon I discovered to my displeasure that these machines had been spoliated, that is taken away, from other French factories, and of course these other French factories approached us and claimed their machines from us.

Q. You said that specialized machines were sold by Krupp, or were supposed to have been sold by Krupp, in 1943. Were these machines which, on the basis of the agreement of September 1942, had been sold to Krupp?

A. Of course, they were machines which had been sold to Krupp in September 1942, because all the machines had been sold to Krupp at that time, but in this lease agreement which we concluded with Krupp, there was a special clause providing for the possibility that if Krupp should ever return the factory to the Austin company, a minimum of 30 specialized machines should be kept. Not even that clause was complied with. I want to add something. I want to add that from all I found out after the liberation, when I came into the factory, I saw that Krupp had the intention to stay in that factory for the famous thousand years.

Q. Witness, well, I need more proof to believe that.

A. Certain machines essential for the production of tractor spare parts had been taken away while other machines which had nothing to do whatever with this production had been installed there. Besides that, certain changes, substantial changes, had been made in the factory and certain installations fixed, which prove that Krupp was not by any means a lessee for a year or two, but a lessee who meant to stay for good. I want to go on. An electric transformer had been installed in the factory, and in the house where the directors lived certain changes had been made for the convenience of the new masters; they had felled the few remaining trees in the park and transformed it into a vegetable garden for the directors. The electric transformer which had been installed in the factory was spoliated property. Most of the things came from the arsenal of Puteaux.

Q. Is it true that the Puteaux arsenal was a motor vehicle shop of the armed forces?

A. I don't know exactly, but I think so.

Q. Is it true, Witness, that the lease agreement contained a clause for automatic extension of the agreement?

A. Yes.

Q. Thank you. I have no further questions.

* * * * * * *

CROSS-EXAMINATION

DR. WECKER (associate counsel for defendant Krupp) : Witness, you levelled a grave charge against Krupp by saying that the deportation of your brother-in-law, Mr. Rothschild to Auschwitz, was the result of certain connections between Mr. Sandre and a certain Mr. Schmitt. We are not dealing with a company now, but with human beings of flesh and blood. Therefore, I want to put a very direct question to you. Are you able to testify to the fact that the gentleman sitting in the dock over there had anything whatever to do with the deportation of Mr. Rothschild to the Auschwitz concentration camp?

WITNESS CELAP: I personally don't know any of these gentlemen here in the dock. I do hold the opinion and the firm conviction that my brother-in-law was arrested and deported to Auschwitz on account of the Austin factory, and only on account of that. Best proof is that he was arrested a very short while after the visit by the provisional administrator. He was therefore in my view arrested on account of the intervention of the firm of Krupp and I hold the Krupp works responsible. The Krupp works, on the other hand, were administered not by a firm

but by human beings of flesh and blood, as you say, and among these administrators are the gentlemen who are here in the dock.

Q. This grave accusation is based first of all upon the fact that Sandre is accused in the letter of Mr. Rothschild from prison of having reported Mr. Rothschild to the police. (*NIK–10590, Pros. Ex. 662*).*

A. Yes, that is correct. But even without the letter—as my brother-in-law was arrested 10 days after the visit of Sandre—I would have assumed even without the letter from the prison that Sandre was responsible. But on top of that assumption I received this letter from my brother-in-law from the prison, where he writes and accuses Sandre and bases his accusation on the fact that he had received quite precise information. Also I would like to add that a man like my brother-in-law, who at that time knew perfectly well what was going to happen to him, had no reason to lie and I ask the Tribunal that he be believed.

Q. Your second conclusion is that Mr. Sandre was a friend of Mr. Schmitt's. Is that correct?

A. That is quite correct, and I think we discussed this question at great length yesterday.

Q. We needn't talk about it any more, need we. Two more brief questions. When there was a change in the office of the provisional administrator, was there an inventory taken every time?

A. The inventories were not taken and listed on the occasion of every change. Only when Erhard was appointed was there an inventory taken. But I am very glad you asked that question because yesterday I forgot something, some clause in the Krupp contract which was not complied with. There was a clause in the contract between Krupp and the provisional administrator according to which an inventory was to be taken of everything, of the machines, the furniture, the spare parts, and the tools, and also the installations; but only the inventory of the machines was ever taken.

Q. One more question on the topic of the arrest of Mr. Rothschild. At the time when Mr. Rothschild was arrested wasn't there a general wave of arrests of Jews in France, or at any rate a large number of arrests?

A. That is quite correct, but I have to add there, that Mr. Rothschild had always defended his viewpoint quite clearly and had insisted that the appointment of a provisional administrator and the seizure and the spoliation of his property was not even in line with the then existing laws in France and was quite

* Document reproduced above in this section.

illegal on account of the fact that he was a Yugoslav national and that his case could only be treated under Yugoslav law which made no distinction between Jews and Aryans. I want to add: He first defended his view point before the tribunal in 1941, and I want to stress that he was not arrested until 1944, exactly 10 days after the visit we had by Mr. Sandre; I want to say also that if they had arrested him only on account of the fact that he was Jewish, then they could have arrested him right from the start—they knew where he was, everybody knew his address—they could have come to fetch him at the beginning when the anti-Jewish measures started in southern France.

* * * * * * *

REDIRECT EXAMINATION

MR. MANDELLAUB: Do you remember when the action against the Jews started in the unoccupied zone of France?

WITNESS CELAP: The law against the Jews was promulgated on 22 July 1941. That applies to the nonoccupied zone. In the occupied zone, the anti-Jewish measures started almost right after the arrival of the German troops, that is, in October or November 1940.

Q. Do you remember the summer of 1943, August, when mass demonstrations were made all over France in the occupied zone against the Jews?

A. Yes, I remember.

Q. And Mr. Rothschild was not arrested then?

A. No, he was near Monte Leman at that time, and he was not even in hiding.

* * * * * * *

2. CONTEMPORANEOUS DOCUMENTS

TRANSLATION OF DOCUMENT NIK-10587
PROSECUTION EXHIBIT 664

LETTER FROM ECONOMIC DEPARTMENT OF THE GERMAN MILITARY COMMANDER IN FRANCE TO MILOS CELAP, 15 APRIL 1941, DECLARING VOID THE SALE OF AUSTIN SHARES BY ROBERT ROTHSCHILD

Paris, 15 April 1941
Hotel Majestic, Avenue Kleber 19
Telephone: Kle 6800/09

The Military Commander in France
Administrative Staff, Dept. Wi [Economic Dept.] I
File No. 6694/41

Mr. Celap in the firm of Austin Soc. An. 33, Ave. des Champs-Elysees,
Paris 8

Dear Sir,

Since the sale of 27,000 and 30,000 shares effected through Mr. Rothschild to Mr. Celap on 26 September 1940 does not guarantee the exclusion of Jewish influence in the Austin firm in Liancourt, I hereby declare this agreement void by virtue of paragraph 4 of the second ordinance concerning measures against Jews dated 18 October 1940 (VOBLF [ordinance gazette] for the French occupied territories No. 12 of 20 October 1940).

The appointment of a provisional administrator for the firm will be made from here.

For the Military Commander
The Chief of Staff of Administration
BY ORDER:
[Signature] DR. KUNTZ

903432—51——35

TRANSLATION OF DOCUMENT NIK-8011
PROSECUTION EXHIBIT 669

LETTER FROM KRUPP TO ERHARD, ADMINISTRATOR OF THE AUSTIN PLANT, 22 JUNE 1942, OFFERING TO PURCHASE THE PLANT

22 June 1942

R. Erhard, Arbitrator,
30, Rue Pierre Nicole,
Paris 5e

On behalf of the firm Fried. Krupp A.G. Motor Vehicle Department, Essen, and with reference to the discussion held in your office last Saturday, 20 June 1942 with Director Habermaas* of the Motor Vehicle Department concerning the acquisition of the Austin works in Liancourt, we make you without obligation the following purchase offer:

We acquire the entire works, including all buildings, real estate, machines, factory fittings, and stocks of material, free from any liabilities whatsoever, for the price of *5 million francs.*

In the event of purchase, we would be prepared to continue to operate the now existing plant, and also for the coming 3 years to carry out incoming orders for spare parts for the Austin tractor, and to supply present customers.

We are planning to make substantial improvements to the machinery plant by replacing many of the unusable machines with new ones, and consequently also offer permanent employment for the coming years to the present workers, who will be taken over in a body, the office staff included.

By expanding our building and manufacturing program in Liancourt in various directions, we would also try to bring back again the workers who have left to date, and further we will make every effort to attract new workers to the factory in Liancourt, so that resumption of production in the former Austin factory to the extent projected would also be of substantial advantage for the city of Liancourt. It is understood that we would also renovate the present buildings—whether it be the factory itself or the large dwelling house belonging to it—in order to accomodate newly engaged workers in that very dwelling house and in this way to increase the capacity of the plant still further.

We should be very grateful to you if you would pass on our *purchase offer to the competent ministry* as quickly as possible,

* Habermaas was commercial manager of the Krupp motor vehicle department (Krawa) in Essen. See extracts from the testimony of defense witness Johannes Schroeder reproduced below in this section.

since the business is unusually urgent; in addition, we would like you to let us know your answer within the next 8 days if possible, since we and the authorities above us are very interested in bringing about an early decision in this way.

[Initial] H. [Habermaas]

TRANSLATION OF DOCUMENT D-526
PROSECUTION EXHIBIT 665

FILE NOTE OF WILLI SCHUERMANN, A MEMBER OF KRUPP'S FINANCE DEPARTMENT, 29 JULY 1942, CONCERNING ACQUISITION OF THE AUSTIN PLANT LEASE

[Handwritten] Dr. Busemann

File notes

concerning the conference on 28 July 1942 with Mr. Habermaas and with Mr. Biegi* of the Krawa.

Subject: Liancourt

Before my departure for Paris, Mr. Biegi informed me of the fact that the Krawa had made Commissioner Erhard, who is in charge of the Austin plant at Liancourt, an offer for the acquisition of the site, the buildings, and the machines of the Austin factory. He has been offered 5 million francs for all the property including buildings, real estate, machines, equipment, and stocks, free of any liabilities. The offer was made without prejudice. In the meantime, it was planned to ascertain the possibilities of financing the purchase and of transferring the money to Paris on the condition of operating the Liancourt factory as a Krupp and not as a Wehrmacht enterprise.

Having investigated the matter in Paris, I gave the gentlemen the following report:

Mr. Stein supplied the information that up to now Mr. Erhard in Paris could not make up his mind to consent to the sale on the basis of our offer. He suggested to Mr. Stein that we should go into partnership with a French firm, and since Mr. Stein could not make any suggestions in this line, Mr. Erhard delayed the negotiations to such an extent that finally the appropriate military authority in Paris urged a settlement. This authority declared that if Mr. Erhard could not make up his mind to sell, at least he would have to give a 3-year lease to Krupp.

* Biegi was an official of Krupp motor vehicle department (Krawa), Essen, and later in charge of administration of "Krupp-ELMAG." Extracts from the testimony of Biegi concerning the ELMAG case are reproduced below in section E 2.

The provisional administration would be taken away from Mr. Erhard and a German commissioner would be appointed unless the lease were granted in a very short time.

As we want to manage Liancourt as a Krupp, and not as Wehrmacht enterprise, this can only be done in conjunction with a French firm. It was learned from Mr. Kramer, Landesgruppenleiter of the Office for Foreign Commerce [Aussenhandelsamt] of the NSDAP, that while the French object to a further German economic penetration of France, they consent to German participations up to 30 percent.

Thus, in order to find an approach to Liancourt, I suggested to Mr. Stein first to conclude a 3-year lease agreement. As soon as the proposed hard metals factory at Dreux will be set up, one should try to break the lease and in conjunction with the hard metal plant officially purchase Liancourt from the provisional administrator. The new hard metal factory in Dreux, which will be called "SOFAMET", also might set up a new corporation at Liancourt in conjunction with Krupp, at a ratio of 70 percent SOFAMET and 30 percent Krupp. In this way an all-Krupp enterprise could be established at Liancourt, which from the French point of view would look as if it were to 70 percent under French control, while as a matter of fact, it would be 100 percent in German hands. For the SOFAMET shares will be assigned to the Zapp Sales Corporation "SICA" which has been recognized as a French business; accordingly during the Franco-German war it had not been sequestrated prior to the armistice.

Mr. Habermaas was in basic agreement with this plan, he is only doubtful as to the point whether he should enter a lease without knowing when Liancourt finally can be acquired by a corporation of our own.

His objections were that he will have to make fairly heavy investments in Liancourt in the intervening period. If the contemplated transactions with SOFAMET cannot be carried out, the money will have been invested in Liancourt, and it might have to be considered lost if we do not succeed in buying the factory.

It was agreed with Mr. Habermaas that if possible Mr. Stein should conclude a 3-year lease agreement which would also give us the option to acquire the plant at the flat price of 5 million francs at a time selected by us during the period of the lease. Mr. Stein shall be informed accordingly.

Finance Department, 29 July 1942

[Signed] SCHUERMANN

TRANSLATION OF DOCUMENT NIK–13002
PROSECUTION EXHIBIT 686

LETTER FROM WALTER STEIN, MANAGER OF KRUPP'S REPAIR WORKS IN PARIS, TO KRUPP'S MOTOR VEHICLE DEPARTMENT IN ESSEN, 1 AUGUST 1942, REPORTING ON NEGOTIATIONS TO LEASE OR PURCHASE THE AUSTIN PLANT

Krupp Repair Works, Paris
Field post address: Krupp Repair Works
Field Post No. 30248

Paris-Puteaux, 1 August 1942
Quai National, 8

Fried. Krupp A.G.
Motor Vehicle Department
Attn: Director Habermaas
Essen/Ruhr

Subject: Firm Austin in Liancourt.

During the last few weeks, after the departure of Director Habermaas and after negotiating continuously with Mr. Erhard, the commissioner appointed for this Jewish enterprise, we discovered that Mr. Erhard has other interests and did his utmost just to put us off. About 10 days ago, during a conference with the staff of mobile units (Baurat Kummer) in the presence of Dr. Bleckmann of the above-mentioned staff and of an officer of the Armament Inspectorate these men apparently gained the impression that Mr. Erhard had been appointed as commissioner by the Jews. Subsequently, there was another discussion on the following day with Dr. Blanke of the Armament Inspectorate. Dr. Blanke who is the economic advisor of the Armament Inspectorate intended to confiscate the Austin plant in Liancourt for the Krupp firm. Meanwhile we approached directly the Administration for Jewish Property (Mr. Inspector Bourgeois). We had a direct discussion with this gentleman, several days ago; in the course of which we pointed out to him all the possibilities of Liancourt. This gentleman was very much surprised about the fact that he had not received the slightest information from Commissioner Erhard about the current negotiations. Furthermore, he declared that Mr. Erhard had also submitted other purchase offers after we had submitted our offer. It is therefore clearly and unmistakably proved that Mr. Erhard was trying to deceive us. In order not to lose time, Mr. Bourgeois contacted the Production Minister and Finance Minister, and

he let us know yesterday that we would most probably receive an offer from the Production Minister in a few days time regarding the lease of the enterprise in Liancourt. Thus, the road is open to start direct and final negotiations concerning the rent. Later, after the plant has been leased, one could work out quietly all the remaining details concerning the purchase.

We are sending this to you for your information and will let you know immediately as soon as we receive a further report, which we expect around 5 August 1942.

[Stamp] Krupp
Repair Works Paris
[Signature] STEIN

TRANSLATION OF DOCUMENT NIK-13018
PROSECUTION EXHIBIT 684

APPROVAL OF KRUPP CONCERN, SIGNED BY DEFENDANTS KRUPP AND LOESER ON 16 SEPTEMBER 1942, OF AN APPLICATION BY KRUPP'S MOTOR VEHICLE DEPARTMENT TO FORM A CORPORATION IN PARIS, PLUS TWO ENCLOSURES INDICATING BASIS OF FUNDS REQUESTED

Motor Vehicle Department
27 August 1942

Application for authorization of
RM 1,250,000
for "Krupp S. A. Industrielle et Commerce, Paris"
HV 28 August 42, No. 07701

[Handwritten]

Duplicate
Mr. Krupp von Bohlen und Halbach, 11 September 42
Mr. Loeser, 31 August
Mr. Goerens, 1 September
Mr. A. von Bohlen, 7 September
Mr. Schroeder, 29 August
Mr. Busemann, 31 August

Decision No. 820
Authorized
Gusstahlfabrik, Essen, 16 Sept. 1942
Fried. Krupp A.G.
the Directorate
Signed: ALFRIED VON BOHLEN UND HALBACH,
LOESER

Fried. Krupp
Aktiengesellschaft
Essen

[Handwritten]
1. Auditing Dept. 19 September 1942
2. Motor Vehicle Department
3. Participations Office
4. Contract Office
5. HvB for the files

We request: (1) for the formation of a company in Paris (compare enclosure 1) *RM 125,000;* (2) for granting a credit to above company (compare enclosure 2) *RM 1,125,000.*

[Stamp] Fried. Krupp
Aktiengesellschaft
Motor Vehicle Department

Signed: BIEGI
HABERMAAS

Enclosures

Enclosure 1

Subject: The application to the Fried. Krupp A.G., Essen, of 28 August 1942.

The fact that the tasks assigned to the Motor Vehicle Department make it necessary, in view of the limited space available, to make use of additional space for manufacture outside of the Motor Vehicle Department, has led us to examine also in occupied France the possibilities for accommodating production capacities.

The interests of the Motor Vehicle Department in France were at first looked after by the "Krupp Repair Depot, Paris," a motor vehicle plant with around 700 workers.

The general attitude of the Fried. Krupp A.G., to make use to a large extent of the French production by a transfer of orders, is known to us, and it will be one of the duties of the company to further expand the transfer of production already started. It is however planned to give the new company additional tasks, in a few words, their spheres of work will be the following:

Purchase or lease of French production facilities with a view to manufacturing parts of the motor vehicle program; manufacture and sale of rail packing machines in France; production of superstructures for public vehicles; installation of a repair

workshop for Krupp vehicles for after the war; trade in machines and tools for the supply of own or controlled plants; later on, also taking over orders of other Krupp departments outside the Motor Vehicle Department. To this is added the financing of dependent enterprises as well as supervision of transfer of orders in general.

It is planned to found a purely French company with the name—

"Krupp S.A. industrielle et commerce, Paris."

The possibilities of putting this plan into effect are still being examined on the spot, in conjunction with Mr. Schroeder and Mr. Schuermann. The amount of RM 125,000 is composed of the following items:

Capital Stock, French francs 2,000,000 equals	RM 100,000
Costs of founding company	RM 25,000

[Stamp] Fried. KRUPP

Aktiengesellschaft

Motor Vehicle Department

Signed: BIEGI

HABERMAAS

Enclosure 2

Subject: The application to the Fried. Krupp A.G., Essen, dated 28 August 1942.

The following are the purposes for which the sum of RM 1,125,000 requested in the application is needed:

a. Plant installations for the SA—

Teletype machines, Typewriter inv. etc.	RM 25,000
Liquid funds	RM 150,000

b. Machines—

18 Mopco-Hure-Tools (round sum)	RM 200,000
23 Bretain Louviers (round sum)	RM 270,000
15 various makes (round sum)	RM 180,000

For those machines we already have the necessary certificates from the Armament Staff France of the Reich Minister for Armaments and Munitions and from the Army Motor Vehicle Pool 503 Paris, in which it is certified that the acquisition is necessary for the execution of the orders given by these offices.

c. We are about to conclude a lease with the Administrator of Jewish Property in France, Paris, for the lease of Austin works at Liancourt.

Annual Lease ..... RM 10,000
For the equipment of premises, canteen, and living quarters we need an amount of ..... RM 50,000
For the plant installations, transformers, electrical installations, etc. ..... RM 50,000
Also the first working capital for this department to the amount of ..... RM 50,000
In order to be able to dispose freely of the machinery in the Austin works we need for purchasing same ..... RM 75,000
Costs of overhauling and repair of used machinery at Liancourt ..... RM 25,000

We quite understand that these machines are only partly suitable. The actual value, however, of these as well as of some of the above-mentioned machines is far higher than the values stated, so that same may be purchased without risk and by selling some of them, new machines may be bought from the proceeds.

One truck and one motor car for Liancourt ..... RM 8,000
Wood-working machines for Liancourt ..... RM 6,000

d. Freight, transport and insurance, legal expenses for lease agreement, and miscellaneous ..... RM 26,000

[Stamp] Fried. Krupp
Aktiengesellschaft
Motor Vehicle Department

Signed: HABERMAAS
BIEGI

TRANSLATION OF DOCUMENT NIK–12999
PROSECUTION EXHIBIT 688

LETTER FROM KRUPP'S MOTOR VEHICLE DEPARTMENT IN ESSEN TO WALTER STEIN IN PARIS, 1 SEPTEMBER 1942, CONFIRMING INSTRUCTIONS FOR STEIN'S ACTIVITIES IN FRANCE CONCERNING THE AUSTIN PLANT

Mr. Walter Stein
Krupp repairshop
Field Post No. 30 248

Krawa VV 1017
Bi/Vo

1 September 1942

In the course of various conferences with you in Essen, the following points arose:

1. Director Schroeder and Director Habermaas will arrive there by sleeper [rail] the middle of next week, i.e., 9 September 1942, in the morning. Please book rooms at the "Claridge" Hotel. If possible an appointment with Mr. Aubert should be made for the 9th or 10th since otherwise the trip would possibly be postponed.

Further, it was agreed to obtain information about Mr. Aubert.

2. We herewith give our consent to the signature of the lease contract for Liancourt in the form submitted to us. If it was not possible any longer to make an alteration in the contract, you will establish an additional contract in which the owner, or his representative, will give his consent in accordance with III, No. 5, to the transfer of the rights of the lease to a French corporation to be established by Krupp.

3. In preliminary discussions you will clarify whether the possibility exists of founding the new French firm completely as a Krupp enterprise, so that 100 percent of the shares will be held by Krupp.

4. You will obtain certificates from the Army Ordnance Office, Paris office, or the H.K.P. [Heereskraftfahrpark-Army Motor Pool], for the planned purchases of further machines, in order to facilitate the transfer of money for us.

5. You will continue your efforts to install a teletype machine as soon as possible.

6. At the Liancourt plant you will on your part take up the manufacture of rail packing machines as soon as possible, at first as a subdepartment of Krupp Repair Work, Paris.

7. We declare ourselves in agreement with the purchase of the machines at the plant Liancourt for the total amount of RM 75,000. Further the purchase of machinery to a total amount of RM 434,680 according to your letter of 7 August, was approved.

8. The accounting in the Liancourt plant will be done by you in such way that—

a. the products manufactured there can be calculated separately.

b. as long as the booking of incoming and outgoing amounts is done by Krupp Repair Work, Paris, these are to be kept absolutely separate from the costs concerning H.K.P. [army motor pool].

9. As to the salaries of Klatt, Gehle, Muenst, Hedenus, and Boettcher, you will report according to separate letter to the "Sondertreuhaender der Arbeit fuer die besetzten Gebiete" [special delegate for labor questions in occupied territories].

10. You will take all necessary steps to clearly indicate in the

accounts the expenditure for the office for transfer of orders. Furthermore, we would ask you—

a. to continue your efforts regarding Vierzon. Not only regarding the position of our industrial representative there, but also in order to get more information concerning machinery, owners, etc.

b. Moreover we ask you to keep an eye on the possibilities of establishing additional production capacities for the Motor Vehicle Department, since we are very interested in acquiring or renting other enterprises.

FRIED. KRUPP A.G.
Motor Vehicle Department
[Initials] Bi [Biegi]

TRANSLATION OF LOESER DOCUMENT 69
DEFENSE EXHIBIT 425

LETTER FROM GERMAN FOREIGN EXCHANGE OFFICE IN DUESSELDORF TO KRUPP'S FINANCIAL DEPARTMENT IN ESSEN, 2 SEPTEMBER 1942, AGREEING TO LEASE OF AUSTIN PLANT AT LIANCOURT WITH STIPULATED CONDITIONS

From: Krupp file K.A. 71

Copy

Duesseldorf, 2 Sept. 1942

The Oberfinanzpraesident
[Regional Finance President]
Duesseldorf
(Foreign Exchange Control Office)
File No. R 39 yellow Reference No. 4408/42
In charge: Main Department IV/Du.
To:
Messrs. Fried. Krupp A.G.
Financial Depart.,
Essen.
Reference: Your letter of 29 August 1942/bi—Fina No. 38894
Subject: Lease of a plant in France.

Considering the fact that the Wehrmacht has instructed you to enlarge your Krupp repair plant in Paris, I agree to this subsidiary branch plant leasing the Austin plant at Liancourt (Société Anonyme Austin) at an annual rental of RM 10,000. The first rent may be paid from the funds available for your repair plant at Paris in accordance with my permission R 39 reference 890/41 dated 18 February 1941.

I emphasize, however, that my special permission must be obtained for any further enlargement of this plant and for investments necessary in this respect. This also applies to the possibly necessary transformation of this enterprise—taken on lease—into an independent enterprise of the Fried. Krupp A.G..

This decision is to be considered jointly with my permission of 18 February 1941.

By order

Signed signature

PARTIAL TRANSLATION OF DOCUMENT NIK-10485 PROSECUTION EXHIBIT 671

AGREEMENT BETWEEN KRUPP AND ERHARD, PROVISIONAL ADMINISTRATOR OF AUSTIN, 3 SEPTEMBER 1942, FOR TRANSFERRING MACHINERY OF THE AUSTIN PLANT AT LIANCOURT TO KRUPP AND RELATED MATTERS

Protocole de Cession [terms of yielding] of *the Assets of the Société Austin* (Liancourt) to Fried. Krupp A.G., Essen, Between *Fried. Krupp. A.G., Essen* represented by Walter Stein, its director and La Société Austin at Liancourt (Oise), represented by its provisional administrator, Mr. Erhard, 30 Rue Pierre Nicole, Paris.

The following has been agreed upon:

I. *Machine tools*—The machine tools enumerated in Appendix I are sold to the Krupp firm at the over-all price of forfeiture of 1,500,000 francs, one third of which is payable at the time of signing the present instrument; one third, 30 days later; and one third, 60 days later.

The Krupp firm consents to cede to the owners on a lease basis 30 machine tools from among those set aside for current manufacture by Austin and which up to this day are being used in the plant. The price will be established by common consent after independent assessment by both parties.

These 30 machines are to enable the proprietor to resume a minimum of operations immediately upon regaining possession of the plant.

II. *Stock of supplies, small caliber tools, spare parts.*—On the day of assuming possession, an inventory of the following items will be taken by both parties independently: stock of supplies, small tools, calibers, and spare parts.

All the bookkeeping records shall be balanced on the date of occupancy, in order to check warehouse transactions between the date of taking-over and the date when the inventory is completed.

For inventory purposes varying materials will be uniformly entered in the books.

Stocks of material

Within a fortnight after the lease has been signed, an inventory shall be taken, its figures to be based on an assessment made by both parties independently, and the Krupp firm will submit a purchase offer.

It is understood that in cases where receipts are needed to assure the replacement of articles sold, receipts for the material obtained will be given to the seller.

Stocks of Austin spare parts

These supplies which will provisionally be left in the locked storage room where they now are will be consigned to a trustee to be appointed by the Krupp firm, and who is acceptable to Soc. Austin, until lists and figures covering the inventory have been established. After an assessment has been made by both parties independently, the Krupp firm will make a purchase offer.

Should the stocks be sold the following is agreed:

I. That the Société Austin will be given receipts for the material whenever these receipts may be necessary to secure replacement of the articles sold.

II. That materials covered by the inventory, which are supplied to Soc. Austin for the upkeep of the tractors in circulation, will be resold by Krupp at the same price.

Should Soc. Austin desire to keep the stocks, it will have to remove them from the factory which is to be leased to Krupp within 15 days of the date when the intention of retaining ownership of such supplies was announced.

Materials (machines, dismantled and installed, etc.)

Within 15 days after signing the lease, inventory lists and figures will be drawn up, based on an assessment made by both parties independently, and the Krupp firm will make a purchase offer.

Furniture

The Société Austin will take such furniture and objects which it considers useful for the continued pursuit of its business in the offices which it has just rented at Liancourt, and where it is installing itself.

Based on an assessment made by both parties independently, an inventory, including figures, will be prepared for the remainder, within 15 days after signing the lease, and the Krupp firm will make a purchase offer.

Files and manufacturing data

The Krupp firm will keep and safeguard all the files and manufacturing data which are entrusted to it and which remain the property of Société Austin. They are listed numerically in the attached inventory (appendix 2).

The Krupp firm is pledged to maintain and reproduce them at its own expense, to transmit them in every case on demand of the Société Austin, and to have copies made from them for Société Austin.

Items which are excluded from the sale

Formally excluded from the sale are the following: the business, good will, patents, license rights, all of which remain the exclusive property of Société Austin.

Commercial ownership of the Austin trade-mark

The Société Austin retains exclusive rights to its trade-mark, the exploitation of which it reserves for itself. The Krupp firm pledges itself not to compete with the Austin trade-mark and to permit the latter to exploit its business normally.

Supply and manufacture of spare parts; work and repairs on tractors

For the entire period that the factory is rented, the Krupp firm pledges itself to make or to furnish at the request of Société Austin the necessary spare parts and to execute repair or upkeep work on the Austin tractors that are in circulation.

To the extent that this is reasonably possible, the Krupp firm will loan two workmen for repair done outside of the factory. The necessary insurance policies which are required will be taken out by the Krupp firm.

It is understood that the Société Austin is perfectly free to have all work executed by others.

Arbitration

In case of disputes, the parties pledge themselves to accept arbitration by an expert on whom both agree amicably or, in default of this, by an expert who has been appointed by the president of the Tribunal of Commerce (Seine), at the request of one of these two parties.

Should the arbiter fail to bring about an agreement of the two parties, an arbitration court will be set up composed of three

arbiters appointed as indicated above—against whose verdict no appeal is possible.

Paris, 3 September 1942

Signed: WALTER STEIN
MAURICE ERHARD

* * * * * * *

PARTIAL TRANSLATION OF LOESER DOCUMENT 70
DEFENSE EXHIBIT 426

EXTRACTS FROM EXPERT OPINION MADE BY A FRENCH FIRM FOR KRUPP'S REPAIR SHOP IN PARIS, 15 SEPTEMBER 1942, CONCERNING THE VALUE OF THE AUSTIN PLANT AT LIANCOURT

Lecart Firm
Ing. A. and M.—E.C.P.
Paris

EXPERT OPINION [*for*]
Krupp Repair Shop, Paris [concerning the]
LIANCOURT FACTORY
Industrial and Commercial Surveys
Expert surveys after fire
Exclusively for the account of the insured

Postal Checking accounts
Paris 614–04
1, Rue du Cardinal Mercier

Office LECART
Ing. A. and M.—E.C.P.

Paris, 15 September 1942

Expert Opinion

Upon the request of Société Krupp Repair Works, we proceeded as from 1 September 1942 to the site, to establish the pertinent facts.

As regards the buildings, we secured the assistance of Maitre Dupuy, sheriff's officer [Huissier] at Liancourt, from 1 September on. Together, we examined the various buildings, taking several photos which he certified to be correct and which accompany and corroborate the statement which he duly prepared on the basis of our work.

The property to be evaluated consists of partly wooded sites, of fields, of a castle with smaller buildings, and of the factory buildings.

The grounds are divided in three sections.

The first one, covering approximately 30,000 square meters, with a front of approximately 100 meters facing Rue Victor Hugo, is occupied by the castle and its outhouses.

The second, covering an area of approximately 40,000 square meters, with a front of approximately 80 meters facing Rue Victor Hugo—adjacent to the space occupied by the castle—comprises the factory and a hunting lodge.

The third section, facing the plant, on the other side of Rue Victor Hugo, covers a surface of approximately 2,750 square meters; it has a front of 77 meters, and is separated from the street by a river which will be referred to further down. There is nothing here but buildings which are in ruins.

The value of these grounds has considerably depreciated because of the following two reasons:

a. An artificial river, La Beronnelle, diverted by an earlier owner away from the valley road, separates lots 1 and 2, isolating lot 3; foot-bridges permit light traffic.

This river, the source of which is at a distance of 10 kilometers from the grounds, forms nevertheless an integral part of the property all along its course. From this it follows that the sewerage—which is particularly difficult because of the inadequate river bed—the upkeep, as well as the damages which the river may cause, are all the responsibility of the owner of these lands.

b. Furthermore, an accumulation of water, at about 0.80 below the surface, which for the reasons given below it is well nigh impossible to dry up, affects the entire tract of land.

For landscaping, an earlier proprietor had proceeded to build water cascades for which purpose he diverted numerous small springs from the hill upon which Liancourt is built by canals to his grounds.

When a parceling-out occurred, the owners built their houses without the assistance of technicians, and where they struck canalization they broke through because it was in their way. As a result, all the water flows towards the land that lies at a lower level, and the land with which we are concerned here is situated at the foot of the slope, with the waters converging on it from all directions.

A proof confirming this is the fact that in the two buildings which alone are provided with a basement—the castle and the wing housing the plant janitor—there is a permanent pool in the basement which it would be impossible to eliminate except by work which is entirely out of proportion to the desired aim.

One nevertheless must take into consideration the improvement of the built-up sites by reason of water supply canalization—from the river as well as from the city—and waste canalization. The latter alone is worth a visit.

No practicable access at all except for the direct approaches to the castle and the plant.

Taking into consideration the situation, the drawbacks as outlined, and the price paid for land in that region, the value of the parcel may possibly be assessed at 2 francs per square meter, a possibly higher price to be asked for the front section and the built-up sites.

One thus arrives at the following figures:

Front facing the road, 1,800 square meters at 10 francs	18,000
Built up area with canalization, 8,024 square meters at 5 francs	40,100
Fields, woods, river, 62,920 square meters at 2 francs	125,800
or a total of	183,900 francs

Buildings

Remarks

The stone used for building is of soft material which is subject to splitting by frost; it has a low degree of resistance which explains certain damages.

Castle de la Bergerie

Built-up site, 674 square meters; present value 670,000.

Consisting of a ground floor resting, in part, on a basement, one story taking the front, and a top story in the form of an attic. No outhouses. Detached building.

* * * * * * *

Recapitulation of buildings

	Present value
Castle de la Bergerie	670,000
Building number 2	50,000
	720,000

Plant

Building 1—janitor	42,000
Building 2—workshops, offices	1,300,000
Building 3—wash rooms	
Building 3a—W. C.	
Building 3b—tests; bicycle garage	96,000

903432—51——36

	Present value
Building 4—thermal treatments	42,000
Building 5—forge, copper-smith's shop	87,000
Buildings 6–7—painting shop, spare tractors, reserve supplies	60,000
Building 8—sheds	1,500
Building 9—testing of tractors	33,600
Building 10—warehouse	225,000
Building 11—heating plant	36,000
Building 12—machines	28,000
Building 13—electrician	2,000
Building 14—tractor repair	66,500
Building 15—metal cleaning	2,500
Building 16—garage	27,600
Plant chimney	60,000
Hunting lodge	46,000
Foot bridges across la Beronnelle	6,200
Enclosures	60,000
	2,221,900

Former sawmill

Former shoe factory—display	
Building 1—turbine, reconditioning	
Building 2—warehouse, refectory	52,000

General recapitulation
Buildings

Castle and annexes	720,000
Factory	2,221,900
Old sawmill	52,000
	2,993,900

Recapitulation factory equipment

Building 11—heating plant	391,600
Building 12—central office	501,000
Building 2—shops, offices	2,371,700
Building 3—wash-rooms, toilets, wardrobes, tests	30,900
Building 4—thermal treatments	27,600
Building 5—forge, coppersmith's shop	36,500
Building 9—tractor testing	8,400
Building 10—warehouse	49,600

	Present value
Building 13—electrician's workshop	200
Building 14—repair shop	11,000
Exterior	2,200
Central heating	205,000
Light and power	22,000
	3,657,700

Building 1, Old sawmill

Turbine

1 turbine presumed to be "Francis" underground recuperation plant (recuperation énterree)

7 hp, 50/60 revolutions per minute—counts not available.

Building 2, warehouse

1 stockpile of Austin pieces approx. 2 tons	2,000
1 stockpile of fire-proof bricks	1,200
	3,200

Recapitulation material of old sawmill

Building No. 1	Account
Building No. 2	3,200

Total for material

Factory—page 49	3,657,700
Old sawmill—page 50	3,200
	3,660,900

General recapitulation

Real estate—page 3	183,900
Buildings—page 19	2,993,900
Equipment—page 51	3,660,900
General total	6,838,700

Conclusion

Taking into account these various considerations, the total value of the whole—real estate, buildings, material—amounts to 6,838,000 francs.

But, for immediate realization, this figure is certainly too high for the industrialist who taking charge of the business will be obliged to carry out long and expensive repair work involving risks. In addition, he will have to replace a good number of machines, which will retard the normal production which he has a right to expect.

In view of the present difficulties in procuring these replacements the price that can be immediately realized must be asserted by taking into account a security margin of 40 percent.

The total value, as defined above, would then be 4,000,000 francs.

TRANSLATION OF DOCUMENT NIK–7025
PROSECUTION EXHIBIT 674

LETTER FROM KRUPP'S DIRECTOR SCHROEDER[1] TO HABERMAAS, COMMERCIAL MANAGER OF KRUPP'S MOTOR VEHICLE DEPARTMENT, 16 NOVEMBER 1943, REPORTING A VISIT TO THE LIANCOURT PLANT BY DEFENDANT KRUPP AND PLANS FOR PRODUCTION

Dipl. Volksw. Joh. Schroeder

Director of the Fried. Krupp Aktiengesellschaft

Essen, 16 November 1943

Dear Mr. Habermaas,

Today I am referring to your letter of the first of the month, in which you raised the Stein matter.[2]

In the meantime Mr. A. von Bohlen and I have been in Paris. Mr. von Bohlen has inspected our factories located there and gained throughout a favorable impression, which he also expressed to me. He takes the viewpoint that we should continue to support the efforts to produce in the West.

Mr. von Bohlen was also of my opinion that the plant in Liancourt is far from being adequately utilized and that something should be done to employ 300–400 workers there. We have been looking for some time in Paris for factory space for the production of Widia tools.[3] We have agreed to carry out this production at the Liancourt factory. Now you write that this is at variance with your agreements with the military authorities. I do not quite understand this, for these agreements are pretty old and the factory is most inadequately exploited. I believe that this difficulty could be settled, and I would be glad to cooperate in bringing about a settlement.

Apart from Widia, the locomotive factory is now looking for manufacturing space in France for making spare parts for our locomotives. I believe that this, too, ought to be possible at Liancourt. Therefore, it would be advisable if we had a conference on the Liancourt problem.

If there are still unexplained bookkeeping items as between Puteaux[4] and Liancourt, I would like to send over an auditor to

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[1] Director Johannes Schroeder at this time was chief of Krupp's financial department. He testified as a defense witness, and extracts from his testimony are reproduced below in this section.

[2] The "Stein matter" refers to the activities of Walter Stein, a Krupp official in Paris. The next two contemporaneous documents reproduced below, correspondence between Stein and Schroeder, concern Stein's activities in relation to the Liancourt plant on behalf of Krupp.

[3] Widia tools are machine tools with extraordinarily tough cutting edges. Widia was the trade name for a special alloy.

[4] Puteaux was the suburb of Paris in which the Krupp Repair Works, headed by Walter Stein, was located.

clear up these questions, so that we finally know where we are. However, I would insist on a personal interview as all these problems cannot be solved by letter. I should be grateful if you would let me know some time when you will be in Essen again, so that we can arrange a meeting.

I have told Mr. Eberhardt and Dr. Janssen about this letter.

I remain with best regards,

Sincerely yours,
[Signed]: SCHROEDER

PARTIAL TRANSLATION OF DOCUMENT NIK-7012 PROSECUTION EXHIBIT 673

LETTER FROM WALTER STEIN TO DIRECTOR SCHROEDER, 25 NOVEMBER 1943, CONCERNING DEVELOPMENTS IN THE ATTEMPT TO PURCHASE THE LIANCOURT PLANT

Walter Stein, engineer

Paris, 25 November 1943

Dear Mr. Schroeder

I am taking the opportunity of giving this letter and the accompanying documents to an officer of the general [corps] command of Muenster, who is returning this evening to Germany, and I sincerely hope that the entire material reaches you satisfactorily.

Please examine the balance sheets and let me know what items are to be taken off and will definitely be taken over by the Fried. Krupp A.G. I also wish to call your attention especially to the interest charges, which are altogether unnatural and furthermore distort the picture as they make the entries at the Liancourt accounts appear terribly inflated, due to the fact that the interest charges were spread over the individual accounts.

French Krupp Société Anonyme

In this matter I give a short summary as follows, the following results having been obtained on the basis of the recent protracted negotiations:

The president of the COMA (Comité d'Organisation de Machinisme Agricole), Mr. Olivier maintains his favorable attitude now as ever and backs the firm of Krupp through his economic group.

The French Commissioner for Jewish Property, who granted the 3-year lease of Liancourt to Fried. Krupp A.G., and who agreed to its transfer to the French Krupp corporation, also made only favorable comments on the state of affairs in Liancourt after

a year of operation and added the relevant files and supporting documents to the record.

The Ministry of Production, represented by Diplomingenieur [certified engineer] Blanchard, as well as by some other members of the cabinet, have made only favorable comments on the firm, and they continue to advocate the sale of Liancourt to the new French Krupp company.

Only the *Ministry of Finance* has *raised an objection* in the summer of this year. While this has been dismissed by the military commander, it appears from petty chicaneries in their correspondence and from similar things that the Finance Ministry is afraid of the firm of Krupp. On the basis of recent internal and confidential negotiations it has been disclosed that the Finance Ministry is opposed to the firm of Krupp because it fears an incident similar to the one which occurred *before the war in connection with the motor factory Matthis at Molsheim near Strasbourg.* A considerable time ago, Ford established a corporation in France for the purpose of selling its products. While originally this company had a fairly small capital, suddenly this capital stock was greatly increased, and one day Ford simply bought the motor factory Matthis. In addition, the French Ford company bought large parcels of real estate here.

The French are afraid that Krupp might do the same, once it had acquired a firm hold, and that the French Krupp company might acquire interests in the most important enterprises of heavy industry, such as the blast furnaces at Nancy and the like, and finally purchase them. Moreover, the Finance Ministry has a most conservative attitude, which makes it easy to figure out the trend of thought of these gentlemen.

With the aid of an acquaintance, an officer of the counter-intelligence office at Muenster, I succeeded in the meantime to establish a closer contact with the French Government, by making the acquaintance of *Count de Janchais* who is the liaison officer of Marshal Petain with Minister de Brinon in the Hotel Matignon in Paris, and who also has offices here. This Mr. de Janchais is in his early forties, he has the rank of a lieutenant colonel and gives an impression of great activity and vivacity. At any rate, the man is talented and has been specially entrusted with the task of collaboration by the marshal. Quite apart from the further developments and the negotiations with the Finance Ministry, the above gentleman will influence the Finance Ministry in our favor. Whether this intervention will have favorable results for us cannot be ascertained yet. The direct participation of the firm of Krupp in the French Krupp S.A. is another factor. Yesterday, I had another lengthy conference with Dr.

Mangold at the office of the military commander in France. Up to now Dr. Mangold has spared no pains to push the matter, but an extended illness and an absence from Paris for a number of months prevented him from interceding in our favor. As Dr. Mangold explained to me yesterday, General Michel of the most important and supreme military economic authority has made a concession to the effect that the participation of German firms in French enterprises shall not exceed 45–50 percent. It is, however, known that Krupp owns 95 percent of the shares of this French company. This, too, is an unfavorable circumstance in view of Mr. Michel's latest concession to the French State.

As you know, the surplus capital which was paid in on the occasion of the establishment of the French company amounts to about 5 million francs. As explained before, the Foreign Exchange Office [Office des Changes] in Paris did not make any direct objections to the purchase of the building on the Boulevard Haussmann because it had been informed that the purchase price was paid out of original capital. It is still uncertain whether there will be any of the usual complications with the Prefect of the Seine Department; however, the fact remains that the result of the negotiations with the Foreign Exchange Office was positive. If we now want to buy Liancourt out of this fund, I wish to state that the account is exhausted, since machinery worth about RM 130,000 has also been purchased since 25 March 1943. Hence the bank account of the French Krupp company is exhausted to all intents and purposes, for the *purchase of the house cost 2.5 million,* and *2.6 million* were spent for the acquisition of machinery. It should be added, however, that only the money for the house has been withdrawn officially from the bank account with the Société Générale, and the acquisition of machinery was charged to the so-called special account. On the balance sheet the picture will be that the French Krupp company will keep its own books beginning 1 October 1943, and all monetary transactions will have to be made through the bank.

For this reason Mr. Mangold recommends that the capital stock of the Krupp company should be substantially increased by issuing shares to the amount of approximately another 20 million francs. This sum should be subscribed by Frenchmen of good reputation. It would be feasible to give these Frenchmen the same kind of participation which had

[Handwritten marginal note] No

been given to the Amidieu du Clos group and against which there is no legal objection. Hence I propose that our capital stock should be increased up to 40 million francs.

Mr. Olivier, the president of the COMA, suggests an indus-

trialist of the highest reputation, to whom there is absolutely no objection, namely, Mr. Gouvy, from the Department Meurthe et Moselle, with domicile in Dieulouard. This gentleman owns a factory there with between two and three thousand employees and is chiefly concerned with the manufacture of agricultural machinery. If you wish, I will make appropriate inquiries concerning Mr. Gouvy, although he is supposed to be in some way distantly related to the Krupp family. I am unable to vouch for the truth of this report, for so far I have had no opportunity to become personally acquainted with Mr. Gouvy. If this plan is carried out, I would suggest the resignation of Mr. Breil, member of our Aufsichtsrat, since

[Handwritten marginal note] Why? He was proposed by Stein.

he is not the man we need. I must admit that our present Aufsichtsrat is very pleasant, but has not been able to be of any help to me so far, with the possible exception of the old gentleman, Mr. Amidieu du Clos. However, as long as I do not have a clear understanding with the French Finance Ministry, Mr. Amidieu du Clos, as an old politician, cannot yet be sent everywhere by us.

As I have mentioned in my letter, Mr. Constantin has explained to me that no French government department would object to the increase of the capital stock, for the State supervises only such corporations that have a capital of more than 50 million francs. In the enclosed translation of a separate letter of Mr. Constantin you will see that he estimates the expenses of this transaction at about *370,000 francs.*

Dr. Mangold has postponed all further negotiations with the French Finance Ministry until the receipt of your answer. Dr. Mangold would appreciate it very much if you would inform us as soon as possible of your opinion on the matter. There would also be the possibility of another personal conference with a cabinet chief, Mr. Brunet of the French Finance Ministry, and, may be, also with Mr. Bichelonne, at the office of the Military Commander. But even today I can say that neither your presence nor that of Mr. A. von Bohlen at these conferences would help us much.

This increase of the capital stock is fully justified if we consider the post-war program which we want to carry out by means of acquiring Liancourt and manufacturing Widia tools, and all the more since we would then have a *monopoly* here for Widia tools, and could then procure foreign exchange for the Krupp concern without great difficulties.

As we realized from the very beginning, we are basically not very

[Handwritten marginal note] Zapp?

interested in making agricultural tractors later on, since this program was to be eventually modified and expanded anyhow. Maybe you will consider the entire matter and also find the time to come to Paris again for 2 days in order to discuss it once more with the proper authorities here. In any event, the money is available, for the bank account for Liancourt still amounts to more than 38,000,000 francs.

Awaiting your early reply, I remain in the meantime respectfully yours,

[Signed] W. STEIN

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TRANSLATION OF DOCUMENT NIK–7017
PROSECUTION EXHIBIT 679

ANSWERING LETTER OF DIRECTOR SCHROEDER TO WALTER STEIN, 10 DECEMBER 1943, EMPHASIZING THE NEED FOR MAINTENANCE OF EXCLUSIVE CONTROL BY KRUPP OVER THE FRENCH KRUPP CORPORATION

Graduate Economist
Joh. Schroeder
Director of the [sic]

10 December 1943

Private

Dear Mr. Stein

I received your letter dated 25 November 1943. I should like to state my personal opinion on it before I treat it in a business-like manner.

I regret that we have not yet settled the matter with the Ministry of Finance; I hope, however, that you and Mr. Mangold will succeed in speeding up matters.

I was very astonished to hear your news about Mr. Mangold and General Michel, to the effect that Germans are not to hold more than 45 to 50 percent shares in French enterprises. When you suggest now that we should therefore turn over half of the capital stock to the French, I must say that I cannot understand your suggestion. A firm bearing the name of Krupp is involved here. It is a matter of course that such a firm must be exclusively in the hands of Krupp, or at least be completely under Krupp's control; or else this firm might sell goods all over the world under the name and the trade-mark of Krupp, competing with us in a most unpleasant manner. Mr. Mangold should have known this, and I cannot understand how he could make such a proposal to you.

Similarly, your suggestion to take a Mr. Gouvy, said to be related to Mr. von Bohlen, is out of the question. In our enterprises only business connections count and personal relationship cannot be considered.

I believe that Mr. Michel only promised to the French that German combines will not buy up any French firms. Our case does not constitute such a type of foreign control. We have set up a new corporation according to French law; hence I believe that Mr. Michel's agreement with the French Government does not concern us.

In order to inform you of our basic attitude, I beg you to take notice of the fact that we would rather wind up the company and bear all the losses attached thereto, than cede the majority to a foreigner.

I should appreciate it if you would kindly inform Mr. Mangold on this subject in a suitable manner.

I was very interested to hear your news about Mr. Breil. After all, you selected Mr. Breil, while we in Essen have not met him at all. On the whole we do not like it if new appointments are made in our Aufsichtsrat. It might give the impression that you, or rather we, had acted rashly in Paris.

The draft of the balance sheet does not quite come up to our expectations. The account of 3.5 million is not an account of the firm Krupp S.A., Paris at all, but is a Paris bank account of the firm Krupp, Essen. The interest which the bank might have to pay to us must be received by Essen, and does not concern you at all, in particular you do not have to pay any interest on debit balances. I have already asked for an investigation in order to ascertain who charged you with this interest and I will cancel the entry of the debit.

We thought that Krupp, Essen, would rent the house, just as we rented Liancourt for the time being. The house has been rebuilt and the factory renovated at the expense of Krupp, Essen, i.e., to the debit of the account of 3.5 million. Moreover, typewriters, paper, and the like have been bought to the debit of this account. All these matters are not to concern the company at all. When these renovations have been carried out and when the factory has been installed, the Krupp company will take over these renovated installations, so that the expenditure for the renovation would not appear at all on the balance sheet for the company. If we enter these costs beforehand in Essen, and if we cancel the debit entry for interest, we will gain a completely different impression of the balance sheet.

If your accounts department should not be able to draw up the

balance sheet in this manner, I shall send someone from our organization department, who will be able to help you.*

* I have just been informed that Mr. Salzinger of the R.B. [auditing department] is going there. I have discussed these questions with him.

Whether, when this investigation has been carried out and when the costs have been taken over by Essen, an increase of capital stock will still be necessary, we shall determine in January, when we are in Paris.

Meanwhile you might try to draw up the balance sheet in the manner described above.

Best greetings and Heil Hitler

Yours faithfully,

[No signature]

TRANSLATION OF DOCUMENT NIK–7023
PROSECUTION EXHIBIT 677

LETTER FROM WALTER STEIN TO SCHUERMANN OF KRUPP'S FINANCE DEPARTMENT, 8 MARCH 1944, CONCERNING REORGANIZATION OF THE FRENCH KRUPP CORPORATION AND OTHER ACTIVITIES IN FRANCE

Walter Stein, Engineer — Paris, 8 March 1944
Manager
Krupp Repair Shop—Paris
APO No. 20269 [Initial] S [SCHUERMANN] 11 March 1944

Dear Mr. Schuermann

This is to acknowledge the receipt of your letter dated 28 February which reached me only yesterday. I hope that in the meantime you have received my letter of 3 March, which to some extent answered your questions of 28 February. The reorganization of the French SA* was also one of the points discussed the last time the directors Schroeder and Eberhardt were here. I suggested above all an increase of the capital stock to approximately 30,000,000 francs in order to obtain a greater liquidity. At the same time the Aufsichtsrat was to be reconstituted, or one or two new members were to be elected into it, in order to conform outwardly also in this respect with the request of the French Ministry of Finance, which as a matter of form requests that the majority be placed in French hands.

As long as the capital stock is 20,000,000 francs, a reorganization and regrouping is impossible, since the Krupp firm subscribed 14,000,000 francs of the capital stock in material assets, which may not be sold prior to the expiration of 3 years. Thus,

* The French Krupp corporation, Krupp Société Anonyme, often referred to as Krupp S.A.

these shares representing material assets are frozen under French law. Only the shares paid for in cash—5,000,000 francs are involved—can be sold at any time.

I should suggest increasing the capital stock by 10,000,000 francs in cash. The Krupp firm would keep 14,000,000 francs. Mr. Chevalier of the firm Zapp is to form the bridge and have 2,000,000 francs worth of shares; the 4 Frenchmen, Amidieu du Clos, Breil, Genty and Guiller, will receive a total of 1,000,000 francs as heretofore. If circumstances allow, the chairman of the Aufsichtsrat, Amidieu du Clos, could be given a few shares more, as a matter of form. The remainder of the shares should be given to a new member. The COMA [Organizational Committee of Agricultural Machinery], likewise the Société Générale, suggested one of their former subdirectors in Paris, Mr. Bernard Verdier, who is about 45 years of age. This Mr. Verdier is at present the director of a very well-known agricultural machinery construction company and in my opinion could in certain respects help us more than the present chairman of our Aufsichtsrat, though he has been quite good up to a point and also has connections, which, however, we have not yet fully utilized because we have not had much contact with the public up to now. In certain circumstances we could take in another member as well, who was likewise recommended to me and was formerly employed at the Worms bank. But I do not want to give you too large a collection of names here.

I received the information about Mr. Verdier from the Société Générale, with which we have our present account; in addition, I am getting further information about the above-mentioned persons. In any case, the recommendation of the Société Générale is decisive for me.

A certain speeding-up of the affair is absolutely necessary, so that there will be complete clarity regarding the purchase of the house on Bd. Haussmann and Liancourt. The Ministry of Production and the other official French offices are very much on our side as a result of the good relations which I cultivated with them, particularly as we have got on excellently with the French agricultural machine factory Bajack in Liancourt. I must not omit to mention as well that the COMA in Paris, represented by their president, Mr. Olivier, has made available all the key figures required by the KRAWA for the carrying-out of the orders.

Furthermore, at the suggestion of Director Schroeder I have looked for a suitable French engineer who, if occasion arises, could develop and improve the Austin tractor of 35 and 55 hp., which after all is very well known. This is extremely important

for the future. Thus, after the war these agricultural tractors could be made in Germany (Breslau) in larger quantities; Liancourt would also benefit thereby.

As you know, we are also at present installing the production of Widia tools at Liancourt.

I hope to have served you with the preceding explanations and expect your further directions or your visit.

In the meantime I remain

Sincerely yours,

[Signed] W. STEIN

TRANSLATION OF LOESER DOCUMENT 71
DEFENSE EXHIBIT 427

MEMORANDUM TO SCHUERMANN OF KRUPP'S FINANCE DEPARTMENT, 7 DECEMBER 1944, LISTING PAYMENTS TO THE KRUPP REPAIR WORKS IN PARIS THROUGH THE REICHSKREDITKASSE*

Copy Fina Echte, 7 December 1944 H/He.

From: Krupp file K.A. 71

To Mr. Schuermann

Subject: Krupp S. A., Paris, i.e., Krupp Repair Works, Paris

Your letter dated 27 November 1944.

I hereby inform you, as requested, of the dates of the various payments, totaling RM 4,000,000.—in as far as these can be seen from the files available here:

RM 500,000	Teletype order of Essen Financial Department, dated 17 September, 1942 to Berlin Finance Department, for cable transfer to Krupp Repair Works, Paris, through Reichskreditkasse [RKK], Berlin. Cabled on 18 September by RKK Berlin, according to teletype Finance Department Berlin.
RM 250,000	Teletype order of Essen Finance Department, dated 19 October, 1942, to Berlin Finance Department, for cable transfer to Krupp Repair Works, Paris, through RKK Berlin. The date when RKK Berlin carried out the order is not shown.
RM 250,000	Teletype order of Finance Department Essen, dated 27 October 1942, to Finance Department

* The Reichskreditkasse was a Reich financial institution, employed, among other things, for transferring credits abroad.

	Berlin, for cable transfer to Krupp Repair Works, Paris, through RKK Berlin. Here again the date when RKK Berlin gave instructions for the cable transfer is not shown.
RM 250,000	Teletype order of Essen Finance Department, dated 5 November 1942, to Finance Department Berlin for cable transfer to Krupp Repair Works, Paris; according to cable of Finance Department Berlin, transferred on 5 November 1942 by RKK Berlin.
RM 1,000,000	Teletype order of Finance Department Essen, dated 11 November 1942, to Finance Department Berlin for cable transfer to Krupp Repair Works, Paris; carried out by RKK on 11 November 1942.
RM 1,000,000	Teletype order of Finance Department Essen, dated 21 December 1942, to Finance Department Berlin, for cable transfer to Krupp Repair Works, Paris. Carried out by RKK Berlin on 23 December 1942.
RM 750,000 4,000,000 —500,000 ——— RM 3,500,000	Teletype order of Finance Department Essen, dated 30 January 1943, to Finance Department Berlin for cable transfer to Krupp Repair Works, Paris. The date when RKK Berlin carried out the transfer is not shown. Of this sum only RM 250,000 were accepted in Paris, the remaining 500,000 being refunded. These RM 500,000 were transferred by Dresdner Bank, Essen, to the German-French clearing [fund] on 11 March, 1943; however, due to disbursement difficulties, the money was recalled and credited again as of 19 July 1943.

I hope that this information meets your requirements.

3. AFFIDAVIT OF THE DEFENDANT ALFRIED KRUPP

TRANSLATION OF DOCUMENT NIK–10332
PROSECUTION EXHIBIT 659

AFFIDAVIT OF THE DEFENDANT ALFRIED KRUPP, 30 MAY 1947, CONCERNING THE FOUNDING OF THE KRUPP CORPORATION IN PARIS

Affidavit

I, Alfried Krupp von Bohlen und Halbach, after having had it called to my attention that I am liable to punishment for giving false testimony, declare herewith under oath, of my own free will and without duress, the following:

As far as I can remember, Mr. Loeser, sometime during the year 1942, made mention in the directorate of his intention to found a Krupp company in France for the purpose of coordinating all existing Krupp interests in France. During my visit at Liancourt some months later, I believe it was in the summer of 1943, Mr. Johannes Schroeder talked to me about carrying out this plan. I have, however, no recollection of the details.

Personally I know nothing about the financial manipulations that led to the foundation of the Krupp company in Paris. Especially, I don't know where the funds came from, that were used for the foundation of the Krupp company in Paris. Neither do I know anything about the amount of capital for this new undertaking. From the viewpoint of the Krupp administration, it was Mr. Ewald Loeser's responsibility to solve the financial problems connected with the foundation of a Krupp company in France. Although I cannot say, whether he carried out the details of this financial plan personally, it is certain that these financial problems belonged within the sphere of responsibility of Mr. Loeser.

When for instance, the State or the Wehrmacht approached the Krupp firm with demands which the firm found impossible to finance or could only have financed with the greatest difficulty, the possibility existed to get loans from the State for the carrying-out of those investments. Loan contracts concluded for these purposes contained a so-called war risk clause during the war. This clause provided that under certain war-conditioned circumstances the firm was not absolutely obligated to pay back the loans to their full amount. The erection of the Krupp Bertha Works in Markstaedt* was carried through with the help of such

* The Markstaedt plant (Krupp's Bertha Works) was built during the war in Silesia. The utilization of foreign laborers and concentration-camp inmates in the construction and operation of this plant was involved in the charges of slave labor. See VIII B and C, below.

loans. The plant had to be abandoned in the course of war actions and fell into the hands of the Russian Army. If the war had not ended with a complete collapse, the Krupp firm would not have been obligated, for instance, according to the contract, to pay back to the Reich the loan taken up for the erection of this plant.

I have carefully read each of the two pages of this affidavit; have made the necessary corrections in my own handwriting and initialed them; I declare herewith under oath that I have told the whole truth in this affidavit to the best of my knowledge and belief.

[Signed] KRUPP VON BOHLEN UND HALBACH

(Signature of deponent)

4. EXTRACTS FROM TESTIMONY OF DEFENSE WITNESS JOHANNES SCHROEDER*

DIRECT EXAMINATION

DR. WENDLAND (associate counsel for the defendant Loeser): Witness, to begin with, may I ask you to give your full name to the Tribunal?

WITNESS SCHROEDER: Johannes Schroeder.

[Defense counsel then proceeded to give the witness instructions concerning the use of the simultaneous translation equipment]

Q. When did you join Krupp?

A. February 1938.

Q. How did you join Krupp?

A. Dr. Loeser was looking for an assistant. He asked several firms in Berlin to suggest four candidates each. From the number of people suggested, he chose me. He then made me an offer which I accepted.

Q. What sphere of activity was assigned to you?

A. To begin with, I was Dr. Loeser's deputy. After a time I took over the accounting branch.

Q. What were the tasks of the accounting office?

A. I was in charge of all formal matters of finance, that is to say, the balance sheet, plant accountancy, statistics, checking of calculations, fixing of prices, taxes, organization, and auditing.

* Complete testimony is recorded in mimeographed transcript, 27–29 April 1948, pp. 6106–6249.

Q. What is your position today?

A. Today I am the head of the financial department of Krupp.

Q. How long have you been that?

A. Since April 1943.

Q. If I understood you correctly, you mentioned just now that organizational questions came under your jurisdiction?

A. Yes, however, we only had to do with the organization of the accounting office and of the administrative department. I had nothing to do with the plant organization.

Q. Who was in charge of the organization of the plant?

A. The plant managers, who had a large amount of independence. Besides them, there was a so-called plant operational department headed by Mr. Girod. This department only intervened from case to case either if there was something wrong in the plants or if the Vorstand asked for a certain job to be done.

Q. The situation which you described just now, was it the same in Essen and in the plants outside of Essen?

A. The leaders of the concern plants also had quite a lot of independence, actually more independence than the Essen officials. We only intervened as the case required, when we noticed in Essen that something had gone wrong.

Q. If I understood you correctly, you are talking about plant organization. Did the plants also have a certain independence in financial matters?

A. Yes, they had a great deal of independence in financial matters, with certain restrictions. The Central Office Essen gave to the subsidiary plants exact instructions as to the drawing up of balance sheets.

Q. Did you have a fixed system for your balance sheets?

A. Yes, the system for the drawing-up of balance sheets was uniform for the whole Krupp concern, so that the figures of the concern plants could be compared.

Q. Did this balance sheet procedure show any peculiarities or was it the customary one?

A. It was the one generally used in Germany, as prescribed by corporation law, and it was subject to certain directives by the economic group [Wirtschaftsgruppe].

Q. Were these balance sheets audited by a trustee?

A. The balance sheets of Krupp and its concern plants were audited once a year by an independent auditor. In addition, they were audited by the financial authorities every three years. On these occasions, approximately ten auditors checked the books for about 1 year.

Q. From the statements you made up to now, I conclude that the influence of the Central Office Essen on the individual plants

was relatively small in financial matters. How then did the firm management in Essen safeguard its influence?

A. Mainly by two methods; one, the concern plants could not expend sums exceeding 10,000 marks without the permission of Essen. In such a case, they would have to make a credit application.

Q. Did this limit beyond which authorization was needed, this 10,000 mark limit, apply to all expenditures of the plants or were there certain differences?

A. This limit applied only to investments; that is, purchase of real estate, construction of buildings, purchase of machines, or acquisition of participations, that is, all items which are shown in the balance sheet under invested capital.

Q. What is the contrary of invested capital?

A. Current funds, i.e., for the purchase of goods, the settlement of obligations and so forth. Here the concern plants had a completely free hand just as the Essen departments.

Q. When we consider the size of the Krupp combine, the amount you mention, this limit of 10,000 marks beyond which authorization for investments was needed, seems to be extraordinarily small.

A. This regulation concerning investments had been issued after the inflation. In 1924, money in Germany was very tight, so that even small expenditures had to be watched. The regulation was not revoked later on.

Q. Did you have further safeguards of a financial nature?

A. Yes, the concern plants were not allowed to have cash or bank accounts in excess of their needs for current business operations. All other amounts had to be transferred to the Essen office and credited to the finance office. They were also not authorized to take up bank credits, to incur debts. When they needed money they had to request it of Essen. In compensation, we gave them a rate of interest above the normal rate, whereas for credits they had to pay a rate of interest smaller than that taken by the banks. The finance department, in other words, was a sort of bank for the whole combine.

Q. On several occasions we here discussed the so-called credit applications. I would like very much to hear from you in detail what was the procedure regarding the approval of such credit applications and how these applications were processed. To aid you in this, may I show you your affidavit of 27 October 1947, which you gave to the prosecution? This is Document NIK-12471, Prosecution Exhibit 514, on page 68 of the document

book 12.* Will you please tell us what the procedure was with regard to credit applications?

A. When a plant wanted to purchase one or more new machines or to enlarge its installations, it applied to the technical office. This office drew up plans and gave a preliminary estimate. As a result, and on the basis of these data, the plant made an application for a loan and forwarded it via the plant manager to the main administrative office of Krupp. Here the application was marked with the names of all the officials who should take notice of this application.

Q. What officials were they, usually?

A. Members of the directorates, the head of the finance department and the head of the accounting office, and possibly additional officials who might be interested in it.

Q. And what was the further course of the matter?

A. The application was presented to the individual officials one after the other, who initialed it. When all these officials had initialed the application, it was returned to the main administrative office and was entered in a book for classified matter. It was given a number and was then forwarded to the appropriate officials for signature.

Q. Were these applications shown to Gustav Krupp von Bohlen?

A. After the applications had been signed, everything above 10,000 marks was always submitted to Gustav Krupp von Bohlen.

Q. Would you say that the signature of Gustav Krupp von Bohlen meant that the application was approved?

A. Yes, however, it was returned to the main administrative office. Here the applications were collected and then, if large amounts were involved, they were submitted once more in a group to the Aufsichtsrat meeting for approval.

Q. What was the practical purpose of this?

A. That was purely a formal matter, because Gustav Krupp von Bohlen always said that for reasons of necessity he had already authorized the granting of the application, and was only asking for a formal approval. I know of no case where the approval was not granted.

Q. Now, the prosecution has presented a number of minutes of meetings of the directorate. Will you please tell us what was the meaning of these?

A. That was purely a matter of form. Meetings of that kind didn't really take place, at least, I don't know of any. It was merely a form on which the loans granted were entered and then

* The relevant points in the affidavit are dealt with during the ensuing examination. The affidavit was therefore not included in the selection of documents concerning Austin.

it was circulated among the three members and all three signed it once more. This was meant to express that all three had jointly given their approval.

Q. But in practice they had been approved long before that?

A. Yes, long before that, by Gustav Krupp von Bohlen.

* * * * * * *

Q. Mr. Schroeder, last night we talked about the procedure when dealing with credit applications. Did you yourself approve credit applications and sign them?

A. Occasionally I signed credit applications below 10,000 marks. Amounts above that could have been signed by me only very rarely, and only in case of several members of the directorate being absent.

Q. May I interpolate here, is it correct that Dr. Loeser was frequently absent for professional reasons and also for reasons of illness?

A. Yes, Mr. Loeser was often absent because of business trips and he was often away because of illness.

Q. Did the procedure when dealing with credit applications change on the occasion of the firm being transformed into a private firm?

A. Nothing was changed at the time with regard to this procedure.

Q. Did anything at all change with regard to the inner structure of the firm?

A. Apart from the personnel changes, nothing changed in practice.

Q. What about the individual plants of the combine, was the described procedure when dealing with credits for investments also in force for them, or was there another regulation?

A. The procedure was the same, with one difference; the concern plants had their own technical offices, so that the Essen technical office did not have any part in the procedure. In addition, in the course of years we granted certain alleviations to the concern plants. They weren't required to make an application for each machine separately, but they could make a collective application for a period extending up to about a quarter of a year. Then the sum stated in the collective application was granted in total.

Q. It was a sort of global approval?

A. Yes, an over-all approval.

Q. If something was left over from the expenditures granted, that is, if the sums had not been exhausted, what happened to them?

A. The sum was disregarded. We didn't transfer the money to

the concern plants. We merely authorized them to draw the money from Essen.

Q. A credit account, in other words.

A. No, only an authorization to draw the money, and they only withdrew the amounts which they really invested.

Q. Were the plants obliged to report in detail on the utilization, of the expenditures granted, on the actual investments made?

A. They didn't have to give an account in detail, but there was a total account at the end of the year when the balance sheet was drawn up. In addition, we had the possibility of having the investments checked by the auditing office.

Q. Witness, I want to drop this topic now and start a number of new ones, concerning the so-called spoliation of France. To begin with, I want to discuss with you the Krupp repair shop in Puteaux, in Paris or near Paris. What kind of place was this?

A. The Puteaux plant originally had been a state-owned French factory. It had been serving as an experimental plant for artillery and munitions. After the occupation of Paris by the German troops, German armed forces set up a repair shop in this factory for the repair of army vehicles. Such repair shops were set up quite often. However, they were not operated by the armed forces themselves but were allocated to German firms who had to carry out the repairs. The firms allocated a staff for these shops, which was called Wehrmachtsgefolge, [civilians working with the armed forces], and who also drove with armed forces drivers licenses. The economic status of such factories however, that is the profits and losses, was a concern to the German firms.

Q. Did Krupp ever make any profits this way?

A. It did make profits, because the repairs were accounted for according to LSOE [Leitsatz fuer die Preisermittlung fuer oeffentliche Auftraege].

Q. What is LSOE?

A. LSOE is a State decree. This means—instructions for regulating payment for public orders. We were compensated for materials used, salaries, an addition to the wages and salaries which was to cover expenses and a profit, additional profit bonus.

Q. Can you tell us where the material was taken from which was used for the repair shop?

A. I don't know each such factory, but as far as I know spare parts came from Germany almost exclusively, at least to begin with, until the Russian campaign.

Q. And how did matters develop from then on?

A. During the Russian campaign, German firms were not able any more to supply all the spare parts needed. Since the eastern

army had priority, it was supplied first and the repair shops of the western armies were instructed to obtain the spare parts in France or to make them themselves.

Q. I now want to discuss the Austin works at Liancourt. How did it come about that Krupp was interested in these works?

A. During the war, the French motor-truck industry was used to a large extent by the German armed forces. Over and above that, additional factories were to work for the German armed forces by producing parts which were to be assembled by German factories into the finished vehicles. The individual German truck factories were assigned one type of truck each, the parts for which they were to get manufactured in France. We got type DB–10.

Q. What is that?

A. That is Daimler-Benz 10. The head of the Motor Vehicle Department, Mr. Habermaas, was told that he should endeavor to find the appropriate factories in France which would produce the parts. The Wehrmacht would support him to this end and allocate factories to him.

Q. Wasn't there also a plan to produce tractors there?

A. One of the plants allocated to us was Austin. This factory was actually allocated to us, whereas the other ones in which we were supposed to produce were located in the south of France which had not been occupied as yet. I can describe it very briefly, perhaps.

Q. Please do.

A. This was a project of 12,000,000 marks, that means 240,000,000 francs. Mr. Habermaas considered the whole matter a bit uncanny. He did not see any possibility of dealing with this business.

Q. What was Mr. Habermaas?

A. Habermaas was the commercial manager of the Krupp Motor Vehicle Department. When Mr. Habermaas was ordered to Paris to receive his instructions, he asked me to accompany him in order to advise him on the financial side of the business.

Q. When was that?

A. I don't remember the exact date, at any rate, it was at the time when the south of France had not yet been occupied. In Paris, we went to the official German Wehrmacht agencies, which told us that in the north of France they had one factory which would be allocated to us. That was Austin. The other factories were in the South, they said, and we would have to use an agent whom the Wehrmacht had already appointed and who would place the orders there.

Q. Did you meet this agent?

A. Yes, we met the agent and firstly discussed his financial demands. Finally, it was left like this, we in Essen should submit a list of the required factories and machines, whereas the agent was to send us a list of the factories of which he could dispose in the south of France.

Q. Could he name suitable plants?

A. I did not participate in the further part of the negotiations, because these were technical questions. They were long and drawn-out, and toward the end it appeared that the factories which he could allocate to us were too light for the heavy tractors. Thus the deal did not come off.

Q. On the other hand, the Austin matter was pursued further?

A. We had already been allocated Austin, meanwhile, where we were to produce parts for the tractor project which I mentioned before, spare parts for the factory in Puteaux working for the armed forces.

Q. Did you need large amounts of money? You spoke of sums which seemed somewhat uncanny to Mr. Habermaas.

A. These were the sums for the tractor program, but when Mr. Habermaas came to Austin for the first time, the plant had been idle for a long time. It had been occupied by German troops for some time, and in all that time it had been neglected. Some of the valuable machinery had been stolen. It was necessary to invest large amounts in this factory in order to start operations.

Q. Did you have to transfer large sums for this purpose to France?

A. Yes. When we decided to transfer our tractor project to France, I suggested in Essen that we transfer a large amount of cash to Paris. My assumption was that the war might end very suddenly and then Krupp would need enough cash in Paris to enable it to pay for all the large orders placed there. Otherwise, we would, in case of a sudden end of the war, have foreign currency debts in France which we would never have been able to pay. Therefore, we transferred 3.5 million Reichs marks.

Q. In connection with this, I would like to put before you Loeser Document 71, Defense Exhibit 427.* It is a letter of the branch office of the finance department, dated 4 December 1944, concerning Krupp S.A., Paris. Are these the amounts which you mentioned just now?

A. Yes, these are the amounts I mentioned.

Q. How were you able to transfer these sums to France?

A. We had two possibilities at that time. The first one was a normal clearing account which already existed before the war and was kept up during the war. The second way had been newly

* This document has been included in the Austin defense material above in VII D 2.

opened up during the war and went through the channels of the Reichskreditkasse. The first way was not feasible in practice because the clearing was blocked.

Q. What do you mean by saying it was blocked?

A. Because Germany already had such large debts in France. In other words, much more money had been paid in in Germany than in France, and these amounts had to be advanced by France to Germany.

Q. And what was the other possibility?

A. Through the channels of the Reichskreditkasse. From a technical point of view it was the same for us. We paid the amounts to a German bank and they were paid out to us by the corresponding bank in Paris.

Q. Was it a matter of indifference to France which way you transferred the money?

A. If we had used the normal clearing account France would have had to increase its credit to Germany still more. If we used the Reichskreditkasse, the account of the German Wehrmacht in France was used up and the money remained in France. And France did not have to send goods or foreign exchange to Germany to pay for that account. In my opinion it was quite agreeable for France. Besides, we didn't bother our heads about that, because the official agencies told us that that was the only way to transfer the money.

Q. When you said before, "we chose this way," are we to understand then that you had a choice at all?

A. No, that was the only possibility.

Q. Was this planned transfer of orders to France carried out?

A. As I told you, the orders were not transferred to France. The factories allocated to us were not suitable for this kind of production.

Q. Did the formation of Krupp S.A., Paris have anything to do with this whole matter?

A. Yes. When we were ordered to place these orders in France, I suggested not to have the orders placed by Krupp in Essen, but to form a subsidiary in France.

Q. What were the advantages of that?

A. This subsidiary was subject to French law. It was to negotiate with French firms on an equal basis. We wanted to avoid creating the impression that we, as Krupp, Essen, wanted to make business deals in France by using pressure through the armed forces, for we wanted to export again to France later on and didn't want to create a bad impression. Besides, the subsidiary was to be the owner of our bank account. Then, even in case of a sudden end of the war this company would with the

assets available in Paris, have been able to wind up our business affairs, regardless of whether or not we retained control of the company.

Q. What happened to the transferred sums which we discussed?

A. These amounts were used in the following manner: one part was used to restore once more the Austin shops in Liancourt. A further part was used to purchase machines for Austin. Another part was used to make a down payment for the Paris house.

Q. What Paris house was that?

A. It was a house in Paris, on Boulevard Haussmann, which we wanted to buy during the war. A further part was used for certain procurements for Essen. And a large residue is still in Paris today.

Q. Now a few details about the Austin works. What kind of factory was that, which was allocated to you?

A. It was a small factory belonging to the Société Austin, which until the beginning of the war had produced agricultural tractors.

Q. Who was the owner of this factory?

A. The owner of this was a shareholder of the Société Austin. We didn't know the shareholders. Only from the documents of the prosecution I learned that Mr. Rothschild was the main shareholder.

Q. You state you saw it from the prosecution documents. Do you know when he acquired the factory?

A. Yes, it was also in the documents. In 1939, for 4 million marks.

Q. You mean francs?

A. Yes, of course, francs. I beg your pardon. I mean francs.

Q. What did this factory look like when you started there? What were the conditions?

A. It was a small obsolete factory which, as I told you before, had been idle for some time and was quite neglected when we came in.

Q. What sums did you spend and how much did you need in order to start operations in this factory, do you remember?

A. No, I am afraid I don't remember the exact figures. It might have been 2 million francs. I don't remember exactly though.

Q. In connection with this I would like to show you Loeser Document 69, Defense Exhibit 425.* This document, as you can see, is a decision concerning the granting of foreign exchange. Perhaps, when looking this over, you can give us some more details.

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* Reproduced above in section VII D 2.

A. All I can do is to confirm what it says—that we got the order from the Wehrmacht to operate this Liancourt plant so as to produce spare parts for the repair shop in Puteaux.

Q. Did you enter into any contractual agreements with the owner of the S.A. Austin?

A. Yes. When Mr. Habermaas saw the plant he stated that he could not take the responsibility for investing large sums in this plant in order to rent it for a short time.

Q. Then you had concluded a lease agreement?

A. That had been planned. He said that if we had to invest large sums it would be better to buy the factory right away because then the money would not be lost. For that reason the Motor Vehicle Department made an offer to the Société Austin for the purchase of the factory. This offer was rejected and we did not make any further attempt and concluded a lease agreement whereby we rented the work shops and the real estate. But the machines were purchased. We couldn't get out of that. It was unavoidable because we were to start a different production from that which the plant had done before, and therefore we had to change machine equipment. If we had only taken out the machines and placed them somewhere else, they would most certainly have been confiscated by the German armed forces, if only to make scrap iron out of them.

Q. In connection with this, I would like to show you Document NIK–10485, Prosecution Exhibit 671.[1] This is the record of the transfer of the assets of Austin. What can you state concerning this?

A. This is the record I talked about just now. In this way we obtained legal title to the machines, machine tools, and the material—insofar as they were owned by this corporation.

Q. Can you make any statements?

A. I just noticed that among other things not purchased was the furniture in the castle, because it says here that this was the private property of Mr. Rothschild.

Q. Private property?

A. Yes. Of the shareholder.

Q. Concerning the purchase price, can you tell us anything about the purchase price of the machines?

A. Point one shows that we bought them for 1,500,000 francs. At that time an estimate was made for us by a French expert, in which the buildings as well as the machines were evaluated. As far as I remember, we paid the estimated sum.

Q. In connection with this, I would like to show you Loeser Document 70, Defense Exhibit 426.[2] This is an expert opinion.

[1] Reproduced above in this section.

[2] Reproduced above in this section.

Perhaps you can look at the last paragraph and explain this reference to certain deductions.

A. This last paragraph contains a summary of the whole expert opinion of this French engineering office. In it, the total value including real estate, buildings and equipment, if they were in good condition, is estimated at 6,800,000 francs. Further it is stated that in view of the poor condition of the installation a deduction of 40 percent would be adequate. Therefore, the total value would be 4 million francs.

MR. MANDELLAUB: I did not get the exhibit number of the document which the witness was quoting from just a second before.

JUDGE WILKINS, Presiding: I can't hear you. What was your question, Mr. Mandellaub?

MR. MANDELLAUB: I just asked the question as to which document the witness was just quoting from a moment before, which I did not get.

JUDGE WILKINS, Presiding: What was the number?

MR. MANDELLAUB: I was just told Document Book 20, I think it is Exhibit 671.

JUDGE WILKINS, Presiding: I didn't get it. What was it?

MR. MANDELLAUB: 671.

DR. WENDLAND: Looking at this document which we just now discussed, concerning the transfer of assets, you will find attached to it the lease agreement. I am interested in learning from you whether the rent agreed upon was an appropriate sum.

WITNESS SCHROEDER: In the estimate mentioned before, the value of the shops was estimated at 3 million francs on the condition that the shops were in good repair. Since they were not, the estimate provided for a deduction, so that the value came to about 2 million francs. As far as I know, we had agreed a yearly rental of 200,000 francs—that is 10 percent of the value of the property. In addition, we took on a number of added expenditures, that is, the repairs, costs for water on the premises, and so on. I still think today that the rent we paid was quite fair.

Q. In the description of this real estate it is mentioned that there was a park and some agricultural land. Did you utilize this agricultural land?

A. Next to the factory was a large area belonging to it, which might have been up to 30 morgen, that is about 75,000 square meters. This land had lain fallow for several years and was full of weeds. On the occasion of a visit I made in Paris, the head of our local repair shop, Mr. Stein, suggested that we should cultivate this area and use the potato and vegetable crops for our French staff in Liancourt and Paris. I immediately agreed to this suggestion.

Q. Were you authorized to do so?

A. No, actually I wasn't entitled to do that—but in urgent cases I could make decisions. However, I had to report to the directorate in Essen. In this case I believed I could take the responsibility because I knew that in Essen they never economized on expenses for food for the staff. I was quite sure that the amount would be approved in Essen.

Q. Did you carry out any negotiations later on, in order to purchase the Austin Company?

A. Yes. When we wanted to found our corporation in Paris, we first consulted some French attorneys and received advice as to how, in keeping with the French legal regulations, we could found a corporation. We consulted German pamphlets wherein German firms were advised to found their own subsidiaries in France. And our lawyers advised us to carry out a "Sachgruendung" in France.

Q. What do you mean by that?

A. It means a foundation whose capital does not consist of cash. We had to bring in assets instead of cash, in this case machines. We founded this company with the aid of a notary public in Paris. According to French law, the company was thus founded. However, it was not yet authorized to carry out commercial transactions.

Q. What were the special conditions for that?

A. A special concession was required, called the "Fond de Commerce" in France. This "Fond de Commerce" could be obtained from the State or it could be purchased from another plant. We tried at first to get it from the State and even received the aid of the French Ministry of Economics. However, the Ministry of Finance opposed it. So that we did not get our Fond de Commerce.

Q. Why did the Ministry of Economics approve the whole project?

A. The Ministry of Economics looked at the thing from economic point of view and probably realized that our plan was reasonable. The Ministry of Finance was more nationalistic and thought more of France's interests. After that we thought of purchasing the Fond de Commerce. That would have been possible if we had also been able to acquire the factory from the S.A. Austin. Subsequently we made a second offer, but this also was rejected so that we had to content ourselves with the lease agreement.

Q. Did Krupp S.A., Paris, this newly founded organization, engage in any business activities in France without having the Fond de Commerce?

A. No, this organization did not engage in any business activities. All our transactions were either channeled through the plant in Puteaux or done by Krupp Essen direct. I have seen a report in the files of the prosecution which was compiled by an official auditor of the French Government after the end of the war, and who had audited our corporation. In this audit report it is expressly stated—

MR. MANDELLAUB: (Inaudible)

JUDGE WILKINS, Presiding: I see the reason now, that when you speak into the microphone we can't hear you. If you speak a little louder we will be able to hear without the earphones.

MR. MANDELLAUB: This document which the witness has quoted from has not been introduced in evidence by the prosecution.

JUDGE WILKINS, Presiding: Well you may cross-examine him later on that if you desire.

MR. MANDELLAUB: Yes, sir.

WITNESS SCHROEDER: I could only have seen this document in the files of the prosecution. It was only compiled after the end of the war.

DR. WENLAND: You explained that you read it?

WITNESS SCHROEDER: Yes, I read it and it states in this document that the books of the corporation show no business activity, that the leading officials apparently made a very serious effort to keep in line with regulations of French laws.

JUDGE DALY: Doctor, will you ask the witness where the report is now that you talked about?

DR. WENLAND: The report is in the document book of the prosecution, Document Book 20. It is NIK–7206.

JUDGE DALY: The exhibit number?

DR. WENLAND: As Mr. Mandellaub said, it has not been offered as an exhibit.

JUDGE DALY: Oh, it hasn't been offered.*

DR. WENLAND: This organization we just mentioned, Krupp S.A., Paris, did it have its own business premises in Paris?

WITNESS SCHROEDER: We had planned to purchase a house in Paris. In this house we were going to concentrate all our business premises. There was the administration of our Puteaux plant, the office which transferred and placed our orders in France, our

* The document in question was an official French report by Mr. Lechary, Examining Magistrate of the Court of Justice for the Seine District in France, dated 24 October 1946. It was submitted to the French Court of Justice after the war in connection with an official French investigation of the activities of the French Krupp corporation, and as such it was subject to judicial notice by the Tribunal. However, the document was not introduced in evidence by either the prosecution or the defense, and hence did not become a part of the official Court Archives. However, copies, both in English and German, were contained in prosecution document book 20.

designing office for railroad engines, etc. In the same building we were going to put our organization. Since it was not functioning at that time, it did not need any rooms. The house was operated as a Krupp house in Paris.

Q. Did you purchase the house, rent it, or how did you get it?

A. When we founded the corporation, we planned to provide it with real estate in addition to an adequate bank account; for according to German foreign exchange law, you were forced to offer even the bank accounts of subsidiaries to the Reich Bank. However, the subsidiaries were authorized to retain their real estate abroad; therefore, we planned to obtain some house in Paris, which would serve our purpose. We instructed the business manager of Puteaux, Mr. Stein, to do this. After some time Stein told us that he had found an appropriate building. He sent us a description and a picture of it and asked for authority to purchase the house.

Q. What house was this?

A. It was on Boulevard Haussmann, No. 141, I think. On the basis of the data, we authorized him to purchase the house. The house, itself, was in pretty bad condition, so that we authorized Mr. Stein to modernize and renovate it.

JUDGE WILKINS, Presiding: When you say "we," whom do you mean?

WITNESS SCHROEDER: In this case I mean the Essen business management, which at my suggestion gave the authorization.

JUDGE WILKINS, Presiding: Who were they?

WITNESS SCHROEDER: At that time it was Dr. Loeser, Mr. Professor Goerens, and A. von Bohlen. When, during my next visit to Paris, I looked at the house, I asked Mr. Stein, who was the seller. He told me that he wanted to purchase the house from the French State, which had confiscated it because the former owner was a Jew.

DR. WENDLER: What did you answer?

WITNESS SCHROEDER: I got terribly scared and told him that we wanted to make a free purchase and not buy confiscated property. Mr. Stein answered that I had not told him that before. If I had told him that before, he would have chosen a different building. It was too late, because he had already notified all German agencies of the planned acquisition and if he tried to get out now, giving as his reason that we didn't want to acquire the house of a Jew, we would have a lot of difficulties with the regional group of the Party in Paris. I had to agree with him and answered he should pay the purchase price, but should not have the property transferred to our name. "Let's

wait," I told him, "and see how the war develops, and in the postwar period we can pursue the matter."

Q. Then you didn't acquire ownership of the house?

A. No, we paid, but we purposely did not acquire ownership. The whole matter was very unpleasant for me and I didn't report on it in Essen.

Q. Now, Mr. Schroeder, I conclude the questions on France and come to a further very large subject matter, which is the acquisition of the Berndorfer Metallwarenbetriebe of Krupp in 1938, the so-called spoliation and exploitation of Austria.

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DR. SCHILF (counsel for the defendant Janssen): A few more questions, Mr. Schroeder, regarding the cases of spoliation, that is, various cases in which the prosecution asserts that Krupp has looted. The matter of Liancourt was discussed yesterday, and other similar matters. Now, let me ask you first of all, because I am concerned now with the financial effect of these matters, did you work on these matters in your department?

WITNESS SCHROEDER: Yes.

Q. Then you are in a position to give first-hand evidence on this subject?

A. Yes, I am, in most cases.

Q. Let me ask you first of all, did you have a grasp of all the departments and of all evacuations which during the war the firm was ordered to carry out by government agencies?

A. Not all, but most.

Q. Then are you also in a position to compare the final effect with other financial transactions of the Krupp firm?

A. Please ask me a question.

Q. In these cases, were there large or small sums involved, in comparison to Krupp as a whole?

MR. MANDELLAUB: I think this is irrelevant.

JUDGE WILKINS, Presiding: And very well-covered by testimony this morning. The Liancourt matter—that is, the Austin works—were very amply covered this morning, Doctor, unless you want to take up something that wasn't covered—

DR. SCHILF: I wish to ask the witness about the financial result of all such cases. Liancourt I cited merely as an example.

Now, Witness, tell us what was the actual financial result of these individual cases in which the prosecution asserts that Krupp spoliated?

WITNESS SCHROEDER: So far as I can ascertain, in every one of these cases we expended money, modernized and enlarged the factories. I know of no case in which we drew any profit from any factory.

Q. So, financially speaking, they all showed a loss?

MR. MANDELLAUB: The prosecution has never contested that Germany lost the war, and that, therefore, the final result was a loss for Krupp. I, therefore, do not think that these questions are relevant to the prosecution's allegations.

JUDGE WILKINS, Presiding: It may stand. The answer may stand.

DR. SCHILF: Apparently I was misunderstood. You said that no profits were drawn from these factories. Of course, I am talking only of the time until Germany's capitulation, not of the time after the capitulation.

WITNESS SCHROEDER: I understand that. I have said that during the war we drew no profit from any factory.

Q. We have spoken of evacuations. Can you tell us roughly the period at which evacuations to the occupied countries were completed?

A. We transferred only four to five factories to the occupied territories. Four of them were transferred before Dr. Janssen's time, and the fifth was transferred during his period of office to Schoenberg, Sudetenland. This territory was regarded as part of Germany, as it had been ceded to Germany in the Munich Agreement.

Q. Were there any transfers carried out inside of Germany to a larger extent or smaller extent?

A. We transferred thirty-six factories within Germany.

Q. Then we can see the difference when comparing these two figures. What was the financial result of the transfers inside of Germany, taking into account Mr. Mandellaub's objection, only until Germany's capitulation?

A. Such a transfer was extraordinarily expensive. It was undertaken only because the Reich demanded it, in order that the factories be able to continue to produce. The Reich agreed to take over the actual cost of the transfer. A part of these costs was refunded to us, unfortunately, not all of it. We had to spend 20 million marks that were not refunded to us.

Q. Now, a special question. You stated that in the period after 1 April 1943, after Dr. Janssen took over the financial department, there was only one transfer to Maehrisch-Schoenberg, in the Sudetenland. The evacuations to France took place prior to that. I should like now to show you a letter from which a contrary conclusion might perhaps be drawn regarding Dr. Janssen. It is Document NIK–7025, Prosecution Exhibit No. 674.* That is a letter from you, Mr. Schroeder, of 16 November 1943, to Mr. Habermaas. Let me submit this letter to you. This letter

* Reproduced above in section VII D 2.

is concerned with Liancourt. Will you please turn to the last page where it says in the last sentence, I quote: "I have told Mr. Eberhardt and Dr. Janssen about this letter." Please tell us what this sentence means.

A. As I said this morning, we were in Liancourt to carry out two sorts of production, firstly, spare parts for the repair shop in Puteaux, and secondly, for the tractor project. The second part of this was abandoned. Consequently, the workshops were not being used to full capacity, as I saw by chance on a visit. Now, I was afraid that the Wehrmacht agencies would also observe this fact and that we should be accused of sabotage. Consequently, it appeared to me important that the motor vehicle department should transfer a further manufacture to that plant. Now, when I mentioned the two names, Eberhardt and Janssen, I did so because I wished to make my letter more impressive.

Q. What do you mean by that, Mr. Schroeder?

A. I wanted to point out the importance of this matter to Mr. Habermaas.

Q. Do you actually remember showing this letter to those two gentlemen?

A. That I cannot honestly remember today.

Q. You stated that you visited Liancourt. Do you know whether Dr. Janssen was ever in Liancourt?

A. So far as I know, Dr. Janssen was never in France. At least, I cannot remember a visit.

* * * * * * *

CROSS-EXAMINATION

* * * * * * *

MR. MANDELLAUB: Witness, you spoke yesterday of Krupp's representative in France. Mr. Stein was Krupp's representative in Paris?

WITNESS SCHROEDER: He was an employee of the motor vehicle department in Paris. As such, he originally managed the factory in Puteaux. Furthermore, he rented the factory in Liancourt, and finally was entrusted with all Krupp's interests in Paris, including the foundation of the Krupp subsidiary.

Q. To whom was Stein subordinated?

A. To Mr. Habermaas, director of the motor vehicle department.

Q. To whom was Stein subordinated in financial respects?

A. After founding the subsidiary, he was immediately responsible to Essen.

Q. He turned to you, as representative of the financial department, Essen?

A. Yes.

Q. In financial respects, was he subordinated to the financial department in Essen?

A. There was really no relationship of subordination. We commissioned him to found the subsidiary in accordance with French law.

Q. In this respect, then, he was responsible to the financial department in Essen?

A. Yes, we can say he was responsible, but not subordinated to the financial department.

Q. As such, he received instructions from the financial department?

A. Yes.

Q. Were these instructions examined by you, particularly as to whether they had been carried out?

A. I, myself, was several times in Paris and had Stein report to me on those occasions.

Q. Then, with regard to Stein's responsibility to the financial department, you were informed of that, were you not?

A. Yes.

Q. Were these financial matters—the purchase of the new property and further financial obligations which Stein entered into in Paris—were they also discussed with Mr. Loeser?

A. No, they were discussed with me, and then if it was necessary, I made the corresponding application for credit.

Q. Well, then, if money was needed, you had to turn to Loeser–

A. Yes, if investments were necessary, I did.

Q. In other words, Loeser was in this way informed of the financial developments?

A. Yes, with regard to Liancourt and, I believe also, to the house in Paris, he knew the fundamental plans from the submitted credit application.

Q. Witness, you then gave instructions to Stein, or your permission, that a house be purchased?

A. Yes.

Q. Was Loeser informed of this?

A. He was informed that we wished to buy a house in Paris.

Q. In the direct examination yesterday you stated that on a second visit, Stein informed you that he had found such a house and told you it was confiscated property?

A. Yes, that he told me.

Q. You then stated that that alarmed you terribly—

A. Yes.

Q. That you wished to make a free purchase and not to purchase confiscated property?

A. That is true.

Q. Then you were perfectly clear in your mind as to the fact that the purchase of confiscated property constituted a violation of law?

A. No, that it was not. I personally was against using or buying confiscated Jewish property for political reasons.

Q. Then you considered it legal?

A. I considered it permissible.

Q. But for political reasons you were alarmed?

A. Yes.

Q. You made representations to Stein for not having told you about that earlier?

A. Yes.

Q. You did not, then, report to Essen?

A. No.

Q. Why not?

A. Because I knew that Essen did not wish to purchase confiscated Jewish property.

Q. Did you know that you were putting the Essen firm in a delicate position by not having told them this? You wished to protect the firm, is that it?

A. Yes, that was my reason for not telling them.

Q. Are you of the opinion that in case you had told the responsible officials in Essen, the purchase would not have taken place?

A. Those gentlemen, too, were not in a position to prevent the purchase, since the purchase was already known to the political officials in Paris. They could not have prevented it for political reasons. There was no possible way of doing it then, but we hoped to do it after the war—settle it in some decent way.

Q. Then you believe that if you had told them something, it would have changed nothing in Essen?

A. Yes, that I believe.

Q. Then the fact that you did not tell them did nothing to change the course of events?

A. No, it didn't. It would only have had the effect that I, myself, would have been subject to criticism.

Q. Was the purchase consummated by the time you learned of this fact?

A. No purchase was ever consummated, Dr. Mandellaub. The house never actually became our property.

Q. Was the purchase contract ever concluded?

A. As far as I know, yes.

Q. Was not a deposit made?

A. I told Stein after the contract had been drawn up—"Since the contract is signed, we must pay," I said.

Q. You are talking now about the purchase contract?

A. Yes, I am. I said: "Please remit the money, but see to it that the house is not registered in our name." Then the money was paid from the assets we had in Paris, and remitted to the French State.

Q. Then the second time you were in Essen—the money had already at that time been paid over to the French State?

A. No, at that time I said: "Pay it, but do not register the house in our name."

Q. Witness, did you know that Liancourt was under the administration of the Commissioner for Jewish Property?

A. I originally had nothing to do with Liancourt. I personally, for financial reasons, was called to Paris. Then Krupp was assigned to Liancourt plant for the reasons I have told you about. The first attempt to purchase this property was made by Mr. Habermaas and Mr. Stein without my knowledge. Then, as I have also stated, they said at that time: "If we invest such high sums * * *"

Q. Mr. Schroeder, please answer my question. Did you know at any time that the property at Liancourt was under the administration of a French Commissioner for Jewish Property, who had been appointed by the Germans?

A. Yes, I knew that. That was pointed out to us after we had made our contract.

Q. At what time did you know that such a contract was drawn up with the Commissioner for Jewish Property?

A. Mr. Mandellaub, I can't tell you exactly when we rented the property. We were instructed to draw up a lease agreement. I had no misgivings regarding a rental agreement. The value of the property was not depreciated in any way. As far as we knew and as far as we were concerned, Liancourt was a French company. We were not interested in the shareholders. I, at any rate, did not know them. It was a company under French law.

Q. You drew up a contract with the Commissioner for Jewish Property who was in charge of that company, did you not?

A. Stein did.

Q. Did Stein conclude this contract in the name of the firm of Krupp?

A. I do not have the contract before me, but I should assume that that is the case.

Q. You want to say that you cannot state that Stein acted in the name of the firm of Krupp?

A. No, I would say the opposite.

Q. You want to say that he did act in the name of the firm of Krupp in this matter?

A. Yes, certainly.

Q. From the fact that a Commissioner for Jewish Property existed, did you know that in this case, also, you were dealing with confiscated Jewish property?

A. Mr. Mandellaub, let me say again, that at the time when the lease agreement was concluded I had nothing to do with the whole matter.

Q. I didn't ask you that question, Mr. Schroeder. I asked you when you heard that a contract or rental agreement had been concluded with a Commissioner for Jewish Property, did you know that you were dealing with confiscated property?

A. Yes, when I found that out, I knew it definitely.

Q. Were you again alarmed?

A. I had no objections against a lease.

Q. How about your superiors in Essen? Did they know about the existence of the Commissioner for Jewish Property?

A. They probably knew there was a Commissioner for Jewish Property in France, but they didn't know that Stein had concluded this contract with the commissioner, the lease contract for Liancourt.

Q. Did they not see the contract that was concluded in their name?

A. No, the property was much too small to bother with.

Q. Was Alfried Krupp [von Bohlen] in Liancourt?

A. Yes, once.

Q. Was he there because it was so small?

A. I asked Mr. von Bohlen to come with me once to France. I did so because Mr. von Bohlen was not familiar with France and I wanted to make it clear to him on this trip to France that in the future, once the peace was concluded, we should expand our business interests more toward the west. On this trip that we made at that time I had plenty of opportunity to explain this to him. You can do that better when you are in the country and can point out its characteristics and beauties to your superior.

Q. You were, at any rate, with Mr. von Bohlen in Liancourt?

A. Yes.

Q. Yesterday, Mr. Schroeder, you spoke of the exploitation of the workshops in Liancourt. You stated that the full exploitation of these workshops was necessary so that the war department officials should not accuse you of sabotage?

A. Yes.

Q. Is that the reason why the workshops were expanded?

A. No, they were not expanded, Mr. Mandellaub. They were simply modernized, that is to say, made better.

Q. Wasn't it Mr. von Bohlen who laid particular emphasis on exploiting the workshops more efficiently?

A. No, that was I, Mr. Mandellaub.

Q. Well, now your letter of 16 November, 1943, in Document Book 21 (*NIK–7025, Pros. Ex. 674*),[1] please let me read one or two sentences from that to refresh your memory. Page 12 of the German Document Book. "Essen, 16 November 1943." Letter to Mr. Habermaas. At Liancourt "Mr. von Bohlen was also of my opinion that the plant in Liancourt is far from being adequately utilized and that something should be done to employ 300–400 workers there." Did you write this sentence?

A. Yes, Dr. Mandellaub.

Q. That is all I wanted to know.

A. Well, I must give an explanation. This letter was not written for this Tribunal and you must give me a chance to explain how I came to write it.

Q. We are not interested in the origin of the letter. I believe this letter speaks for itself.

A. But maybe it doesn't.

Q. I am simply interested in the authenticity of the letter.

DR. SCHILF: Your Honors, this is a cross-examination, but if a witness has a sentence read to him and expresses the wish to elucidate, I do not think it is permissible that he be prevented from doing so.

MR. MANDELLAUB: Your Honor, I was just asking a very limited question.

JUDGE DALY, Presiding: You are justified in limiting the question. He will be given an opportunity in redirect examination to elucidate, if they care to examine him.[2]

MR. MANDELLAUB: Yes, Your Honor.

What other representatives did the Krupp firm have in France?

WITNESS SCHROEDER: We also had a French firm acting as our representative, but I had nothing to do with it.

Q. I am not talking of firms, but of agents of Krupp in France.

A. You mean employees of Mr. Stein?

Q. No, I mean employees of the Krupp firm. Either subordinated to Stein or directly responsible to Essen.

A. With Mr. Stein there was a Mr. Klatt, from Essen. Moreover, we had in Paris a designing department for locomotive parts, but I don't know who managed it.

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[1] Reproduced above in VII D 2.

[2] See the redirect examination by Dr. Schilf, counsel for the defendant Janssen, reproduced on following page.

Q. Who was the representative in Mulhouse?

A. Excuse me, Mr. Mandellaub, I was thinking of Paris. In Mulhouse, our motor vehicle department had been installed in the ELMAG plant; the managers were, first of all, Habermaas and Roth. Later on when Roth was thrown out by the Party, his successor was Mr. _____ I can't remember his name.

Q. To whom was Habermaas subordinated?

A. He was subordinated immediately to the Directorate, that is, in Dr. Loeser's time; then after the changes were made in the Directorate, in autumn, 1943, Eberhardt, as commercial head of all [Krupp] machine factories, was made the superior of Habermaas.

Q. Is it true that until Loeser left, Habermaas' direct superior was Loeser?

A. Yes.

Q. Was he responsible to him?

A. Yes.

Q. After Loeser left, Eberhardt became his boss?

A. Yes.

Q. Habermaas' activities fell then within Eberhardt's sphere of responsibility after Loeser left?

A. Yes.

* * * * * * *

REDIRECT EXAMINATION

DR. SCHILF (counsel for the defendant Janssen) : First I should like to give you an opportunity to say what you wanted to say about the Liancourt letter, regarding which you expressed the wish to give an explanation. I assume that this is the same letter that I submitted to you yesterday? A letter from you to Habermaas?

WITNESS SCHROEDER: No, this is the letter I wrote to Habermaas in which I quoted Mr. von Bohlen, and what I wanted to explain to Mr. Mandellaub was that it is a quite similar matter as in the case of the letter in which I quoted Eberhardt and Janssen. I simply wanted to give further weight to my opinion by quoting colleagues or superiors. I have no idea whether I had any orders to this effect from Mr. von Bohlen. I don't think so. But if I quoted Mr. von Bohlen, my instructions would be more effective.

Q. And these instructions—what were they?

A. They were that this factory, which could employ about 300 men and at which only a hundred were working at the time, should be given further orders from Puteaux, because I feared

that the Wehrmacht, which had assigned the workshops to us, would otherwise say that we were committing sabotage. Thereupon the plant had a machine tool shop put in it, which was to manufacture tools for Puteaux.

Q. This is the same letter that we discussed yesterday, in which you wrote at the conclusion, "I have told Mr. Eberhardt and Dr. Janssen about this letter"?

A. Let me repeat, I simply wanted to give weight to my opinion by referring to other officials.

Q. All right, then all in all you referred to three men: Alfried Krupp von Bohlen, Eberhardt, and Janssen?

A. Yes, to three.

* * * * * * *

E. The ELMAG Plant in Mulhouse, France

1. CONTEMPORANEOUS DOCUMENTS

TRANSLATION OF EBERHARDT DOCUMENT 203
DEFENSE EXHIBIT 448

REPORT OF A DISCUSSION AT THE OFFICE OF REICH MINISTRY OF ARMAMENT AND MUNITIONS ON 27 MARCH 1943, ATTENDED BY DEFENDANT EBERHARDT, CONCERNING TRANSFER OF "TRACTOR" PRODUCTION FROM KRUPP'S PLANT IN ESSEN TO THE ELMAG PLANT[1]

Copy

Berlin W 8, 30 March 1943
Pariser Platz 3
Telephone:

The Reich Minister for Armament and Munitions
No. WF—F 1

Transcript of the discussion at the Reich Ministry for Armament and Munitions, Generalreferat [section] for Economy and Finance, held on 27 March 1943 on the subject of the transfer of the tractor production of the Krupp firm to Mulhouse.

Present:

Prof. Dr. Hettlage[2]	Generalreferat [Main consultants (in Ministry)]
Reg. Rat Dr. Scheuermann	
Min. Rat Sauer—representative of the Chief of Civil Administration in Alsace	Baden State Chancellery, Berlin

[1] The minutes of this meeting made by the defendant Eberhardt are reproduced immediately below (*NIK-6268, Pros. Ex. 1303*).

[2] Hettlage was chief of the Economic and Finance Division in the Reich Ministry for Armament and Munitions, the so-called Speer Ministry.

Director Dr. Janssen Director Dr. Joeden Director Eberhardt Director Roth Director Habermaas	Krupp
Director Schumacher Director Dalmer Director Ochel	ELMAG, Mulhouse*

The Reich Minister for Armament and Munitions has given instructions for the transfer of the tractor production of the Krupp Firm from Essen to Mulhouse, to the factory premises of the ELMAG there. The purpose of the discussion was to arrange an agreement as quickly as possible among those present so that the tractor production may be resumed in Mulhouse at the earliest possible date.

1. Results—In view of conditions with regard to space and manufacturing facilities at the ELMAG, Mulhouse, the production of the Krupp firm which is to be transferred may be set up in Mulhouse without difficulty. The persons concerned will determine the details on the spot; in this connection consideration will have to be given to the fact that the ELMAG's existing production for the navy, the construction of large instruments, and the manufacture of textile machines (the latter for export purposes) must be kept in operation. The machine tool construction department and the signal equipment department of the ELMAG are to be discontinued.

To the extent required by the technical arrangements for setting up the production, it may also be necessary to appropriate nearby facilities by confiscation.

2. It is not practicable to manage the two production departments of Krupp and of the ELMAG separately, neither as regards operation nor accountancy. A unified management of the entire complex is indispensable; it is to be carried on outwardly as the firm of ELMAG, but the business management of this firm [Vorstand] is to be reinforced by a representative of the Krupp firm. In view of the immense importance of the tractor production, the chairman of the Vorstand is to be appointed by Krupp. As for the rest, the tasks of management and the

* The three persons appearing as "Directors" for "ELMAG, Mulhouse" were provisional administrators appointed by the German Chief of Civil Administration in Alsace, since the ELMAG concern had been confiscated pursuant to the German regulations concerning enemy property. See the decree concerning enemy property in Alsace, 16 December 1941, Eberhardt 270, Def. Ex. 2456, and the contract providing for the management of the ELMAG plants by Krupp, Document NIK-6254, Pros. Ex. 1304, reproduced later in this section.)

responsibilities will be divided up among the several Vorstand members as usual. By this means unified control of operations both from the technical and commercial point of view can be attained; separate accountancy for the individual production departments in the Mulhouse works is to be avoided as far as possible.

On the afore-mentioned basis the Vorstands of Krupp and of the ELMAG, in agreement with the Chief of Civil Administration, will find a form of organization which will make it possible to carry out with all speed in the Mulhouse works the armament programs which the Reich Minister for Armament and Munitions wishes to be carried out there.

Signed: PROF. DR. HETTLAGE

Heil Hitler

BY ORDER:

signed signature

Copy to

Firm of Krupp

Attention of Dr. Janssen, for information

Essen

TRANSLATION OF DOCUMENT NIK-6268
PROSECUTION EXHIBIT 1303

MINUTES BY DEFENDANT EBERHARDT ON A CONFERENCE OF 27 MARCH 1943, CONCERNING EVACUATION OF KRUPP'S MOTOR VEHICLE DEPARTMENT FROM ESSEN TO MULHOUSE (ELMAG) AND A DESCRIPTION OF THE ELMAG CORPORATION

File: 11 S 18 AK File No.

Person processing the matter: Ebh [Eberhardt]

Copy to: 1.AB/Mue/Dr. Janssen/Eberhardt/1 Roth

2: Pf Schroeder/AKS [Artillery Design File] 2 Habermaas

received on—Joeden/Ru

Essen, 3 April 1943

[Stamp] Secret

Minutes recorded by Mr. Eberhardt on the discussions at the Ministry for Munitions, Berlin, on 27 March 1943.

[Stamp]

(Illegible)

AK No [Artillery Construction No.] 58879g
[Stamp] action taken by AK No. 58919 of 16 April 1943

The following officials were present:

Professor Dr. Hettlage
Reg. Rat Dr. Scheuermann } Ministry for Munitions

Ministerialrat Sauer—Chief of Civil Administration for Alsace

Director Ochel—Beirat [advisory council] of ELMAG

Director Dalmer—ELMAG

Director Dr. Schumacher—ELMAG

Dr. Janssen
Dr. Joeden
Roth
Habermaas
Eberhardt } F. K. [Fried. Krupp]

Subject: Evacuation of Krawa to ELMAG.

Professor Hettlage explained that as a result of the air raids on Cast Steel Works, Essen, the evacuation of Krawa had become necessary. He said the production of tractors belonged to the most urgent part of the program. The evacuation to ELMAG had been decided; nothing could alter that. The evacuation to ELMAG and the start of operations there should be carried through with the utmost speed. The setting-up of a manufacturing workshop for tractors in Mulhouse under the direction of Krupp could be carried through in three ways—

1. The ELMAG installations to be made available for this purpose might be requisitioned. ELMAG would lease these sections of their works to Krupp.

2. Krupp might become trustee for the works installations in Mulhouse. Somebody would be appointed a general trustee, or chief trustee, who at the same time would be an official acting in a confidential capacity for the chief of the civil administration.

3. Manufacturing might be handled by ELMAG. Krupp would then delegate an official to the Vorstand as its chairman.

He personally rejects a solution according to 1 and 3 and proposes a solution according to 2. The best thing would be for Krupp to conclude a brief agreement with ELMAG, with clearly defined termination provisions, for the transfer of the works.

In behalf of the chief of the civil administration, Ministerialrat Sauer raised several objections against Krupp's taking the plants over. ELMAG officials also expressed doubts. Professor Hettlage, however, declared that the evacuation of Krawa to ELMAG was an indispensable matter which had already been decided. Arguments on that score were no longer in place.

All parties agreed in the opinion that it would have to be made perfectly clear who would be responsible to whom, and how the individual members of the Vorstand would divide among themselves the entire field of activity so as to avoid friction from the outset. Professor Hettlage stressed repeatedly that the leadership must be with Krupp. At the end Professor Hettlage stressed the following as the result of the discussions:

The transfer of the tractor production from Krupp to ELMAG is possible both from the point of view of space and from a technical aspect. Krupp and ELMAG will immediately establish all particulars in that respect. As regards additional firms (textile factories) which perhaps must also be called upon to accomodate Krawa (storage space) there is—if necessary—the Ministry for Munitions available, which would use its authority. The construction of signals and of machine tools will be abandoned by ELMAG; the construction of textile machinery is to continue for the time being. (On the question of defining such exports as are of strategic importance and those which are not, special regulations will come out shortly, to cover the field in general. The ELMAG officials had pointed to the fact that even at this time the construction of textile machinery should not be entirely closed down so as to save from disintegration this important branch of ELMAG production: the ELMAG enjoyed a world-wide reputation in the field of textile machinery construction.)

It is impractical to pick out special shops to satisfy Krupp's needs; a uniform and responsible leadership is required. Krupp is to be entrusted with it. The chief of the civil administration will appoint the associate-trustee who at the same time will become a member of the Vorstand. When the need arises for a chairman this will have to be the Krupp official. For the construction of vehicles the Krupp official will be the sole representative.

The plant is to be operated uniformly. Separate accounting is impractical. The entire production at Mulhouse, Masmuenster, and Jungholz will be run at the cost and for the benefit of Krupp. Krupp guarantees profit for ELMAG. Ministerialrat Sauer will report to the chief of civil administration. As regards Ministerialrat Sauer's suggestion that Krupp should purchase ELMAG, this can be handled in negotiations; this must not, however, hold up the evacuation.

It was finally agreed that Krupp should approach the chief of civil administration at once to conclude with him an agreement relative to the transfer of the plants.

When questioned, Professor Hettlage explained in the course of the discussions that the entire expense incurred in evacuation

will be covered by the Reich. For the final settlement, the war risk clause and the balance of the compensation may also be granted to Krupp. The OKH [High Command of the Army] will be informed by the Ministry of Munitions, so that evacuation instructions may be issued.

In the afternoon two additional discussions took place, first one with Mr. Ochel, Mr. Dalmer, and Dr. Schumacher—subsequently one without Mr. Ochel—during which the question of the composition of the Vorstand and the rights of the members of the Vorstand was discussed; no conclusion was reached.

At the end of the last-mentioned discussion Mr. Dalmer dictated the attached memorandum relative to ELMAG.

1 enclosure [Handwritten]: to be distributed.

[Initial] E[EBERHARDT]

ELMAG, Elsaessische Maschinenbau A.G., located at Mulhouse, was founded 127 years ago and comprises the following works:

In Alsace—
1. Main Works at Mulhouse
2. Foundry at Masmuenster
3. Works at Jungholz
4. Foundry at Bischweiler

In France—
5. Cable Works at Clichy, near Paris
6. Pistol Factory Cholet, near Nantes
7. Shell Factory at Issoudun, south of Bourges
8. ALSTHOM Plant at Belfort.

At the outbreak of the war two-thirds of the program of the main factory at Mulhouse comprised the construction of textile machinery and one-third the construction of large machines; 60 percent has now been converted for manufacture for the armed forces, the remainder for large machine construction (compressors for hydrogenation, large gas machines, turbines for power plants Kembs and Escherwyss, machine tools, signal construction, winches, ore-loading carts, large scales), and textile machines for export. Their personnel comprises at the present time a total of 4,300 persons, including 150 Polish prisoners of war. Other foreign labor is not employed.

The foundry at Masmuenster, capacity 200 tons per month, is presently working predominantly for the Reichsbahn.

The works at Jungholz—actually a spindle factory; personnel, 125 men—has been converted in the course of last year for the manufacture of switch levers for the Reichsbahn. When the construction of signals had been given up, the Mulhouse winch construction department had to be transferred to this plant.

The Bischweiler foundry has been leased to the Maschinenfabrik Esslingen; the right of preemption having been granted to them.

The Cable Works Clichy, one of the largest French cable factories, is exclusively working on Wehrmacht orders.

The Pistol Factory Cholet is likewise working for the German Wehrmacht.

The Grenade Factory in Issoudun is practically shut down.

The factory at Belfort has been leased for 24 years—until 1952—to ALSTHOM in which ELMAG has roughly a 25 percent participation.

ELMAG's capital stock amounts to 114,750,000 French francs, divided into shares of 1,000 French francs each. There is no principal shareholder but a great number of small shareholders who have owned the shares for several generations. Investigations so far made have revealed that at least three-quarters of the stock is probably in French hands. Approximately 60 percent of the stock issued consists of registered stock; the balance of stock certificates to bearers. So far it has not been possible to convert the capital stock. The entire assets are estimated to be worth more than 60 million Reichmarks; the Alsatian plants about half of that.

TRANSLATION OF EBERHARDT DOCUMENT 270
DEFENSE EXHIBIT 2456

DECREE CONCERNING ENEMY PROPERTY IN ALSACE, 16 DECEMBER 1941, SIGNED BY GAULEITER WAGNER, AND ORDINANCE CONCERNING TAXATION IN ALSACE, 30 DECEMBER 1941

Decree concerning enemy property in Alsace, dated 16 December 1941.

For the purpose of coordinating and amplifying the existing legal regulations governing enemy property in the Alsace, it is decreed—

First Section
General Provisions

Article 1
Enemy States

The following are to be considered as enemy states:

1. United Kingdom of Great Britain and Northern Ireland with its overseas possessions, colonies, protectorates, and mandated territories, also the Dominions of Canada, the Australian Commonwealth, New Zealand, and the Union of South Africa;

2. France, including her possessions, colonies, protectorates, and mandated territories; 3. Egypt; 4. Sudan; 5. Iraq; 6. Monaco; 7. Union of Socialist Soviet Republics.

Article 2

(1) The following are to be considered as enemies:

1. The enemy states, their bodies politic and other public legal entities;

2. Individuals who belong to an enemy state or who have their domicile or permanent residence in the territory of an enemy state;

3. Legal entities under private law, also associations of persons, institutes, endowed foundations and other institutions holding money in trust for certain purposes, insofar as they have their headquarters or main center of operations in the territory of an enemy state; and,

4. Any persons other than those named in paragraphs 2 and 3, connected with businesses which they may have in the territory of an enemy state.

(2) Alsace and Lorraine are not to be regarded as territories of an enemy state within the meaning of this order.

Article 3

Alsatians

(1) The following are not enemies as defined in Article 1, section (2) and Article 2, Section (1), paragraphs 2–4:

1. Persons who were German citizens prior to 11 November 1918 and who acquired French citizenship under the terms of the Versailles Treaty (appendix to Article 79), and their descendants;

2. Persons married to a Reich German, an Alsatian, or a Lorrainian, insofar as the married couple live in the Reich, Alsace, or Lorraine, or

3. Persons who as ethnic Germans or German citizens acquired French citizenship after 11 November 1918 and have had their domicile or permanent residence in Alsace or Lorraine.

(2) Persons coming under the above provisions are, however, enemies, if—

1. They were refused residence in Alsace.

2. They emigrated to France after 19 June 1940.

3. An order prohibiting their return was issued by the competent office.

Article 4

Doubtful Cases and Exceptions

In doubtful cases, the Chief of the Civil Administration—Administrative and Police Department—, will determine who is an

enemy as defined in Articles 2 and 3. He can permit exceptions to the regulations of Article 2, section (1), paragraphs 2–4.

Article 5

Enemy Property in the Alsace

The following assets are to be considered as enemy property in the Alsace if in a legal or economic sense they belong to enemies:

I

1. Real estate, real estate titles, and movable property located in the Alsace;
2. Securities, shares, and participating certificates of every kind located in the Alsace; promissory notes signed by debtors whose main offices or main operational center is in the Alsace, even if the documents are not in the Alsace;
3. Funds in the Alsace;
4. Shares in enterprises whose head offices or main operational centers are in Alsace, regardless of whether or not they are vested in securities, or whether the documents covering the shares are in the Alsace or not;
5. Claims against debtors who have their domicile or their permanent residence in the Alsace, and claims arising out of the operation of an Alsatian business of the debtor;
6. Rights and claims filed in an Alsatian public book or register;
7. Trade rights issued in the Alsace;
8. Industrial protective rights and patents, as far as they were in force in the Alsace on 3 September 1939 or later came into force;
9. Any other property serving the operation of an Alsatian business or the practice of a professional activity in the Alsace, insofar as it is not covered by I, paragraphs 1–8.

II

1. Claims to the items listed under I;
2. Claims arising from contracts relating to the objects listed under I.

Second Section

Payment Prohibition

Article 6

(1) It is forbidden to make direct or indirect payments to enemies abroad in cash, notes or checks, or in any other manner.

(2) The Chief of the Civil Administration may permit exceptions to the payment prohibition of section (1).

Third Section
Confiscation

Article 7

(1) All enemy property located in the Alsace on 13 July 1940 shall be confiscated.

(2) In addition the following shall be confiscated:

a. All property of persons as defined under Article 3, Section (2) which was located in the Alsace at the time of the refusal of their residential permit, of their emigration or of the issue of the order prohibiting their return.

b. Assets in the Alsace acquired by an enemy after 13 July 1940 on the basis of inheritance regulations.

Article 8

(1) The confiscation terminates every authority of disposal, representation or administration existing under private or public law.

(2) It will not be affected by changes of title which arise under law (legal inheritance).

Article 9

(1) The Chief of Civil Administration—Administrative and Police Department, can order the confiscation of individual assets to be canceled.

(2) The Plenipotentiary General for property belonging to Enemies of the People and the Reich shall determine which assets come under enemy property. He can order the confiscation of individual assets to be canceled.

Fourth Section
Administration

Article 10

The Plenipotentiary General for Property belonging to Enemies of the People and the Reich

(1) The Plenipotentiary General for Property belonging to Enemies of the People and the Reich is authorized—

a. To administer confiscated enemy property, insofar as it is not the property of enemy states or of public corporations;

b. To purchase and sell confiscated private French property under the provisions of the ordinance governing the taking-over and exploitation of French property in the Alsace dated 1 December 1941 (*Ordinance Gazette,* page 711). This also applies to the property of legal entities under private law, of companies, of associations of persons, of institutes, of endowed foundations,

903432—51——39

and of other institutions holding money in trust for certain purposes, which have their head offices or an actual administrative office in the Alsace and who are directly or indirectly under the controlling influence of enemies by reason of participations or other circumstances.

(2) The Plenipotentiary General for Property belonging to Enemies of the People and the Reich may dispose of confiscated property under his jurisdiction as defined in paragraph 1 and can undertake all legal transactions affecting this property. He does not need the approval, permission, or any other declaration of authorities or persons, such as were required under the law valid in Alsace on 13 July 1940 for undertaking or carrying out legal transactions.

(3) The Plenipotentiary General for Property belonging to Enemies of the People and the Reich will exercise the rights connected with this property both in court and out of court. His legitimation does not depend upon the possession of documents required under private law. He can request information of any kind from enterprises and plants where subunits have been confiscated and take part in the sessions of their supervisory bodies.

Provisional Administration of Enterprises

Article 11

Basic Principles

(1) Provisional administrators can be appointed for enterprises and businesses which—

1. Either belong to enemies in a legal or economic sense, or are directly or indirectly under their controlling influence;

2. Have been abandoned owing to the absence of the owners or responsible managers; or

3. Whose management cannot offer sufficient guarantee that due consideration will be given to the general economic interests to be safeguarded by the Chief of the Civil Administration.

(2) The appointment of a provisional administrator will become effective with the issuing of the order of appointment.

(3) The provisional administrator can be recalled at all times.

Article 12

Jurisdiction

The appointment and recall of provisional administrators is under the jurisdiction of—

1. The Chief of the Civil Administration—Finance and Economy Department—

a. In the case of all enemy enterprises and agencies of industry,

wholesale trade, transportation, banking, insurance, power industry, tourist trade, and of retail trade insofar as it is a question of department stores, fixed maximum price, serial price, and cut-price stores, branch enterprises and shipping agencies;

b. In cases falling under Article 11, Section (1), paragraphs 2 and 3;

2. The Plentipotentiary General for Property belonging to Enemies of the People and the Reich, in all other cases.

Article 13

Position of the Administrator

(1) If no other provision is made at the time of his appointment, the administrator is authorized to engage in all transactions and legal actions both in and out of court which the operation of the enterprise may require. Legal transactions which alter the object form of the enterprise or which lead to the sale or liquidation of the enterprise or of a plant belonging to it, may only be engaged in with the express approval of the authority competent to appoint the provisional administrator according to Article 12.

(2) For the duration of the administration, the managerial and representative authority of the proprietor, owner or other persons or agencies entitled to represent and administer the enterprise or plant will become inoperative.

(3) If the enterprise is entered in the trade or company register, the position of the administrator is to be officially registered without charge of fee.

Article 14

Right to issue Directives

(1) The provisional administrator must carry out the administration according to the directives of the authority competent for his appointment as defined in Article 12, to which authority he must give all information.

(2) The Plenipotentiary General for Property belonging to Enemies of the People and the Reich shall exercise supervision in questions of property law over the provisional administrators appointed for enemy enterprises and plants, in the case of enterprises and plants coming under Article 2, section 1*a*, he shall exercise this supervision in agreement with the Chief of the Civil Administration—Finance and Economy Department.

Article 15

Obligation to use proper care

In his activities the provisional administrator must use the same care as a regular administrator.

Article 16

Compensation

(1) Costs of the provisional administration will be borne by the enterprise.

(2) The administrator can be granted compensation for his activities. In addition, he will be paid his expenses. The amount of the compensation and the question of expenses to be refunded will be determined by the agency competent for his appointment as defined in Article 12.

Article 17

Exclusion of Legal Proceedings and of Claims for Compensation

(1) Directives and measures based on this order or arising out of its implementation, or which are based on the provisions designated in Article 20 or arise out of their implementation, are not subject to review by the ordinary courts. They do not constitute grounds for claims for compensation.

(2) Directives and measures for the administration, taking-over and exploitation of enemy property by the competent agencies, will not become legally invalid because subsequent investigation has established that the prerequisites for a classification of the property as enemy property were lacking.

(3) Doubtful cases and complaints will be conclusively settled by the Chief of the Civil Administration—Administration and Police Department or Finance and Economy Department, within the scope of their respective jurisdiction.

Article 18

Penal Regulations

(1) A prison sentence and a fine up to one-hundred thousand Reichsmarks or either of these sentences will be imposed upon anyone who willfully acts contrary to the regulations of this order, insofar as his act does not warrant a more severe sentence as defined in some other regulation.

(2) Noncompliance arising out of negligence is punishable with imprisonment up to one year or with a fine.

(3) Prosecution under the authority of this regulation will ensue only upon application by the Chief of Civil Administration —Finance and Economy Department or by the Plenipotentiary General for Property belonging to Enemies of the People and the Reich. The application may be withdrawn.

Article 19

Concluding Provisions

The Chief of the Civil Administration in the Alsace—Finance and Economy Department, and the Plenipotentiary General for

Property belonging to Enemies of the People and the Reich can transfer the authority vested in them to other official agencies.

Article 20

(1) With the coming into force of this order, the following regulations will become inoperative insofar as they relate to enemy property:

1. The ordinance concerning property in the Alsace, belonging to enemies of the people and the Reich, dated 13 July 1940;

2. The ordinances for the implementation and amplification of the ordinance concerning property in the Alsace belonging to enemies of the people and the Reich, dated 6 August 1940 (*Ordinance Gazette,* page 4), 7 August 1940 (*Ordinance Gazette,* page 4), 15 January 1941 (*Ordinance Gazette,* page 62), and 21 July 1941 (*Ordinance Gazette,* page 526);

3. The ordinance concerning the appointment of provisional administrators for enterprises and plants in the Alsace, dated 6 August 1940 (*Ordinance Gazette,* page 2), dated 6 August 1940 (*Ordinance Gazette,* page 2).

(2) Unaffected by this order are the implementation regulations concerning the administration and exploitation of real property belonging to enemies of the people and the Reich, dated 25 October 1940 (*Ordinance Gazette,* page 208), and 17 February 1941 (*Ordinance Gazette,* page 208) as well as the registration order, dated 4 April 1941 (*Ordinance Gazette,* page 493). Insofar as reference is made here to provisions which become inoperative, the relevant regulations of this order are applicable.

Article 21

The regulations required for the implementation and amplification of this ordinance will be issued jointly by the Chief of Civil Administration in the Alsace—Finance and Economy Department, and by the Administrative and Police Department.

Strasbourg, 16 December 1941.

The Chief of Civil Administration in the Alsace

ROBERT WAGNER

Gauleiter and Reich Governor

Ordinance concerning Income Tax, Corporation Tax, Industrial Tax and Property Tax, of 30 December 1941

In implementation of the Fifth Ordinance on Tax Law Regulations in the Alsace Income and Corporation Tax, dated 12 February 1941, (*Ordinance Gazette,* page 108), and of the Thirteenth

Ordinance on Tax Law Regulations in the Alsace Industrial Tax, dated 28 October 1941 (*Ordinance Gazette,* page 624), also with reference to property tax as from that date when the provisions of the Property Tax Law of 16 October 1934 (*Reich Law Gazette I*, page 1052) will be declared applicable in the Alsace, the following is decreed:

The territories of Alsace, Lorraine, and Luxembourg are to be treated as German territory for purposes of income tax, corporation tax, industrial tax, and property tax, insofar as the taxes in the designated territories are collected in accordance with the legal regulations of the Reich. Tax matters are to be dealt with as though the territories of the German Reich, Alsace, Lorraine, and Luxembourg constituted one unified territory. The refunding of taxes already paid is out of the question.

Strasbourg, 30 December 1941.

The Chief of Civil Administration in Alsace—
Finance and Economy Department

KOEHLER

TRANSLATION OF DOCUMENT NIK–6254
PROSECUTION EXHIBIT 1304

SECRET CONTRACT BETWEEN THE CHIEF OF CIVILIAN ADMINISTRATION IN ALSACE AND KRUPP, 31 MARCH 1943, CONCERNING KRUPP MANAGEMENT OF THREE PLANTS OF ELMAG

31 March 1943

[Stamp] *Secret!*

[Stamp]
Artillery Design Files
No.
Dealt with by taking due notice
6 April 1943 58877 g

Contract for the cession [Betriebsueberlassungsvertrag] of a plant between the Chief of the Civil Administration in Alsace, hereinafter referred to as CdZ, and the firm Fried. Krupp Aktiengesellschaft, Essen, hereinafter referred to as Krupp.

Section 1

As an Alsatian enterprise with predominant participation by enemy interests, the ELMAG (Elsaessische Maschinenbau A.G.) is subject to the regulations concerning enemy property, in particular the ordinance of 16 December 1941* (page 20 of the

* Eberhardt Document 270, Defense Exhibit 2456, reproduced earlier in this section.

Ordinance Gazette of 1942). It has been placed under provisional management [kommissarische Verwaltung]. The plants in Mulhouse, Masmuenster and Jungholz, specifically belong to its Alsace property.

Section 2

The CdZ will hand over the management of the three plants of the ELMAG mentioned in section 1 to Krupp, with the provision that they are to be administered and operated by Krupp with the care used normally by a merchant dealing on his own account.

Section 3

The determination of suitable compensation for the transfer of the plant will remain subject to more detailed agreements.

Section 4

The contract is to run for the duration of the war and for a suitable terminating period thereafter.

It becomes effective on 15 April 1943.

[Handwritten marginal note]

File 11 S 18

Copies to

Mueller Eberhardt 2; Rudolph 2;

Artillery Design Files; Schroeder 2; Kerksiek 2

Section 5

On that date an inventory will be taken of the fixed assets and industrial material of the ELMAG. It is planned to permit Krupp to buy the raw, auxiliary and industrial materials, the finished and semifinished products, etc., to the extent needed for current production. A special provision will regulate the treatment of stock not needed for current production, such as spare parts, semifinished products, and the like. The machines and installations will remain the property of the ELMAG. The Krupp firm will bring to the Alsace plant as much of its operating equipment (machines, installations, tools, etc.) as it considers necessary. These will be inventoried regularly and will remain the property of Krupp.

Upon termination of the contract the ELMAG will take possession, against reasonable compensation, of the machines and installations which have been newly procured or replaced by Krupp for current production of the ELMAG. Krupp will have the right to take back the industrial materials that remain in its possession after the termination of the contract.

Section 6

Krupp will have the right to make any building alterations that may be necessary. Before the work is performed the documents

and plans pertaining thereto will be submitted to the ELMAG. Compensation for building alterations or expansion will be rendered upon termination of the contract insofar as building alterations were made which resulted in an increase of values for the ELMAG.

Section 7

Beginning with the effective date of the contract Krupp will participate in all contracts affecting current production and the settling of delivery agreements, and will also take over on that date the entire personnel and material costs of the three plants named in section 1. Special arrangements will be agreed on later concerning the problems in connection with the pension obligations of the ELMAG.

Section 8

Krupp will assume the financial obligations of the employment contracts entered into by the ELMAG with the provisional administrators. [kommissarischen Verwaltern].

Section 9

Krupp will continue the current production of the ELMAG insofar as its discontinuation in the future has not already been decided on, and will not neglect it in favor of production to be newly undertaken for Krupp, provided that there are no governmental regulations to the contrary.

Section 10

It is planned to have the three plants to be managed by Krupp designated in the following manner:

ELMAG, Werke Elsass [Alsace Works], Mulhouse.

Section 11

The above agreements constitute a skeleton contract which is subject to amplification, establishment of more detailed provisions and final terms, by the contracting parties.

Strasbourg, 31 March 1943

On behalf of: Chief of the Civil Administration in Alsace,
Department of Finance and Economy

Signed as deputy: KATZENMEIER

Fried. Krupp A.G.
Essen

Signed: HABERMAAS*
Signed: EBERHARDT
Signed: ROTH

* Habermaas, whose name comes up often in the case of the Austin plant at Liancourt, France (section VII D, above), was commercial manager of Krupp's Motor Vehicle Department and a director of Krupp-ELMAG. (See the affidavit of Biegi, Eberhardt 200, Def. Ex. 438, reproduced below, sec. VII E 2.)

TRANSLATION OF EBERHARDT DOCUMENT 204
DEFENSE EXHIBIT 449

LETTER FROM THE ARMY ORDNANCE OFFICE, 28 APRIL 1943, INSTRUCTING THE TRANSFER OF 12-TON "TRACTOR" MANUFACTURE FROM KRUPP'S MOTOR VEHICLE DEPARTMENT, ESSEN, TO ELMAG PLANTS, MULHOUSE

Copy

Sent as teletype and letter

High Command of the Army
Chief Army Equipment and
Commander of the Replacement
Army
Army Ordnance Office A

Berlin, 28 April 1943
Telephone No. 51 45 95 ext. 63

Serial No. 125

Az. 76 e 34.28
No. 2342/44 secret
Army Ordnance Chief Eng. 4
KIb.

Distribution: overleaf

Per registered letter
Firm of ELMAG Werke, Alsace
Maschinenbaugesellschaft m.b.H.
Mulhouse, Alsace
P.O. Box 78

Stamp: Secret

Subject: Transfer of the 12-ton tractor production, from Essen to Mulhouse, Alsace.

The firm of Krupp-Krawa is instructed to transfer the 12-ton tractor production with all speed (beginning April 1943) to Mulhouse, Alsace to the premises of the firm of ELMAG, Elsaessische Maschinenbau A. G.

The transfer is to be carried out as speedily as possible to the end that the production of assembled 12-ton tractors may be begun not later than 1 September 1943.

The armament offices at the place of evacuation will supply the necessary assistance. The transferred department is to have a production capacity of 140 12-ton tractors per month.

The greater part of the transfer has already been carried out pursuant to a preliminary instruction issued on 22 April 1943 by the High Command of the Army, Army Ordnance Chief Eng. 4, under No. 2199.4.43 Ordnance Chief Eng. 4 VIII c.

The costs of the transfer will be reimbursed on application in accordance with the "Basic regulations governing transfers" issued by the Reich Minister for Armament and War Production. The financial and contractual arrangements with the enterprise which is to receive the transferred production will be made in accordance with these "Basic regulations governing transfers"

and will be communicated to the High Command of the Army (Army Ordnance Z 2). This transfer instruction is marked with—

The order number 0986—7011/43.

It is requested that confirmation of this instruction be sent by return mail to High Command of the Army, Army Ordnance Chief Eng. 4 XI b, Berlin C 2, Klosterstrasse 64.

By order:
Signed: Roever

TRANSLATION OF DOCUMENT NI–2884
PROSECUTION EXHIBIT 1309

LETTER WITH ENCLOSURE, FROM ECONOMIC AND FINANCE DEPARTMENT OF SPEER MINISTRY TO KRUPP, 4 MAY 1943, CONCERNING THE ELMAG-KRUPP MANAGEMENT CONTRACT

The Reich Minister for Armament and Munitions
Economy and Finance/K.

Berlin-Charlottenburg, 4 May 1943
Verlaengerte Jebenstrasse
temporary building at the Zoo

To the Vorstand of Friedrich Krupp A.G.
Essen

[Stamp]
Artillery Designing Department
7 May 43 No. 61528
Contents noted
Answered:

Subject: ELMAG—Friedrich Krupp A.G., management contract

I am sending you herewith a copy of my letter of today to the Chief of the Civil Administration in Alsace concerning the matter mentioned above. I request that you too, use your influence to bring about a friendly collaboration with ELMAG.

The evacuation of the firm Friedrich Krupp A.G. to the ELMAG plants is merely a consequence of the war, which will have to be taken into consideration in order to safeguard ELMAG's interest.

Heil Hitler!

As deputy
[Signed] Hettlage
(Professor Dr. Hettlage)

File: 11 S 18
Dealt with by: Rue

Copies to: AB
Mue [Mueller]
Ebh [Eberhardt]
Ru
AKS [Artillery Construction]
Krawa
TB [Technical Office]

[Handwritten]
Enclosure: distribute

WF/K [Economy and Finance]

Charlottenburg, 4 May 1943
Verlaengerte Jebenstrasse
Building 6 a

To the Chief of the Civil Administration in Alsace
Attention of Ministerpraesident Koehler
Strasbourg
Bismarckplatz 4

Subject: ELMAG-Friedrich Krupp A.G., management contract

In reply to your letter Wi 6464 RV, dated 28 of last month, I am pleased to inform you that my letter of 16 April concerning the matter mentioned above, was occasioned by information received from Director Dalmer, member of the Vorstand of ELMAG. Director Dalmer informed us that he was not in agreement with the arrangement made concerning his person in paragraph 8, section 2 of the plant management contract and that ELMAG, for which he is speaking as its provisional administrator, considers itself overpowered by the form of the cession agreement, chosen by the Krupp A.G. A similar report has been sent to you by Director Dalmer on 30 April. In its whole tendency, he says, this contract was not in keeping with the policy agreed upon at the conference with the Reich Minister for Armament and Munitions for the cooperation between ELMAG and Krupp.

From here it is impossible for me to judge in detail whether the provisions of the contract for the transfer of the plant are too exacting for the ELMAG management or not. On the whole, the contract seems to me a guarantee for a uniform management of the enterprise and its best utilization for armament. I would be very grateful to the Chief of the Civil Administration, however, if he would use his influence to achieve a satisfactory arrangement as regards Director Dalmer personally, which would meet with Director Dalmer's approval, too.

Heil Hitler!

As deputy:
[Initials] He [Hettlage]
(Professor Dr. Hettlage)

TRANSLATION OF DOCUMENT NIK-6258
PROSECUTION EXHIBIT 1312

DIRECTIVE FROM THE CHIEF OF CIVIL ADMINISTRATION IN ALSACE TO ELMAG, 10 MAY 1943, INSTRUCTING ELMAG TO TURN OVER ITS PLANTS TO ELMAG WERKEELSAESS, MASCHINENBAUGESELLSCHAFT M.B.H., A NEWLY FOUNDED KRUPP FIRM

The Chief of Civil Administration in Alsace
Finance and Economy Department
No. WI 6625 RV
Kindly cite this reference in your reply

Strasbourg, 10 May 1943
4, Bismarckplatz
ELMAG Mulhouse
[Stamp]
AK [Artillery Design]
19 MAY 1943, No. 61840
Noted: no further action required
Answered:

I. To the Elsaessische Maschinenbau Aktiengesellschaft, [ELMAG],
Attention of Director Dalmer, Mulhouse

Gentlemen:

By reason of the contract of 31 March 1943, the Alsatian plants of ELMAG, the Elsaessische Maschinenbau Aktiengesellschaft, were ceded to the firm of Fried. Krupp Aktiengesellschaft in Essen, for operation by the latter company at its own expense. It has been agreed that effective as of 1 May 1943, the plants will be operated on behalf of the firm of Fried. Krupp as the responsible manager. The firm of Fried. Krupp will carry on operations by means of the newly founded ELMAG-Werke Elsass, Maschinenbaugesellschaft m.b.H.

You are hereby instructed to turn over the Alsatian Works of ELMAG to the ELMAG-Werke Elsass, Maschinenbaugesellschaft m.b.H. (in behalf of the firm of Fried. Krupp), effective as of 1 May 1943.

II. Resolution

Director Mr. Schumacher* as the provisional administrator of the ELMAG, Elsaessische Maschinenbau Aktiengesellschaft, in

* Dr. Walter Schumacher had already been made one of the three directors of the newly founded Krupp-ELMAG on 6 May 1943. The other two directors were Gustav Habermaas and Adolf Roth, both officials of Krupp in Essen (Articles of Incorporation, Doc. NIK-7198, Pros. Ex. 1311, not reproduced herein).

Mulhouse is hereby recalled. Henceforth the provisional administration will be exclusively in the hands of Director Dalmer.
III. Information as to the above

BY ORDER:
[Signed] KATZENMEIER
[Handwritten] (Katzenmeier)

To the firm of Fried. KRUPP A.G. Essen
File: 11 S 18
Person processing the matter: Ru
Copies to: Eberhardt, Ru, Schroeder, Dr. Schuermann (Legal Dept.)
Krawa, AKS (Artillery Design, Files)

TRANSLATION OF DOCUMENT NIK–8908
PROSECUTION EXHIBIT 819

TELETYPE EXCHANGE BETWEEN KRUPP MOTOR VEHICLE DEPARTMENT, BERLIN, AND DEFENDANT EBERHARDT, 2 SEPTEMBER 1944, CONCERNING TRANSFER OF TRACTOR CONSTRUCTION FROM MULHOUSE

[Stamp] 6th Copy, [Initial of Houdremont]

To: Krupp Artillery Construction, Essen
From: Krupp, Motor Vehicle Department, Berlin
2 September 1944, 1330 hours
[Stamp] *TOP SECRET*

[Stamp]	
Secretariat Houdremont	[Stamp]
	Artillery Construction
No. 6252	D. No. 16276 g
Received 4 September	Received on 4 September 1944 [sic]
	Answered on 2 September 1944 [sic]

To:
Director Eberhardt
Subject: Krupp-ELMAG, Mulhouse, Alsace.

The letters received here on 30 August by courier, were immediately forwarded to the Hauptausschuss [Main Committee], Mr. Vorwig in absence of Director Schaaf, and to the OKH [Army High Command], Section Waffen und Geraete [Armament and Equipment], Colonel Von Wilke. The Main Committee [H.A.] ordered me to send to ELMAG the following information:

"The territory of Alsace-Lorraine will not be evacuated. There is no acute danger at the moment, and in case the situation should grow more serious, the evacuation or removal order will be given in good time. If so, this order will not come from the OKH or the Main Committee 'Kraftfahrzeuge' [motor vehicles], but will be given by the Reich Ministry for Armament and War Production via the Ruestunginspection [Armament Inspectorate] Oberrhein in Strasbourg. It is requested that you keep in closest connection with the Armament Inspectorate at Strasbourg."

Scarcely 48 hours later, i. e., last night, on 1 September, I was called from my flat and had to go to the Main Committee. Reichminister Speer had ordered the tractor construction to be evacuated from Mulhouse at once. An order to this effect by the OKH —Armament and Ammunition 6—to the Armament Inspectorate Strasbourg was dispatched last night as a teletype. Up to the present hour I have again been with the Main Committee; now I have the papers and tonight I shall leave for Mulhouse. Krupp-ELMAG has been informed by telegram that I shall arrive there tomorrow. The freight cars with machinery etc., are bound for the Suedd. Eisenbau GmbH. in Nuernberg, which belongs to the Otto Wolf concern. It is very likely that there will be another evacuation plant in Munich. A discussion on the details and planning of the new production will take place on Wednesday, 6 September in Nuernberg at the above firm. I have been ordered to arrive at Nuernberg on 6 September with one member of the Krawa [Motor Vehicle Department] directorate and Commissioner Balz. I am now waiting for your answer by return of cable, whether all will be O. K. Perhaps it will be possible for you to come to Nuernberg too.

[Signed] SCHNIEDERS*

[Stamp, filled out by hand]
File: 1st copy: M 290/0
Person in charge: Eberhardt

Copies to:

Alfried von Bohlen (2d copy), Goerens (3d copy), Janssen (4th copy), F. Mueller (5th copy), Houdremont (6th copy), E. Mueller (7th copy), Ihn (8th copy), Eberhardt (9th copy), Rademacher (10th copy)

* Schnieders was an official of Krupp's Motor Vehicle Department in Berlin. According to the defense witness Biegi, Schnieders was instrumental in obtaining the order from Berlin to have the Krupp Motor Vehicle Department transferred out of Mulhouse. Extracts from Biegi's testimony are reproduced below in this section.

To: Krupp Artillery Construction, Essen

From: Krupp, Motor Vehicle Department, Berlin

The above is top secret to which I especially want to draw your attention. *Please send answer of Director Eberhardt very soon by cable.* Thank you very much.

[Stamp] Not to be dispatched to the offices

SCHNIEDERS

[Stamp] 6th copy 2 September 1944

[Handwritten] Artillery Construction
D No. 16276 g

To: Krupp, Motor Vehicle Department, Berlin

From: Krupp Artillery Construction, Essen

[Stamp] Top Secret!

To: Krupp, Motor Vehicle Department, Berlin
Mr. Schnieders

Very urgent, has to be submitted at once.

[Stamp] Not to be dispatched to the offices

Thanks for your information. O.K. Today our Mr. Vogelsang is going to ELMAG. He is informed of the contents of your telegram and has been commissioned to give us report on the measures to be taken by the ELMAG Directorate. It is not yet definite if I shall be able to be in Nuernberg on Wednesday, but in any case I want the ELMAG Directorate to contact me by telephone before starting the discussions in Nuernberg.

EBERHARDT

Krupp Artillery Construction Essen

1410 hours

To: Krupp, Motor Vehicle Department, Berlin

From: Krupp Artillery Construction, Essen

[Stamp filled out in handwriting]

File: 1st copy: M 290/0

Person in charge:

Copies to:

Alfried von Bohlen
(2d copy), Goerens (3d copy),
Janssen (4th copy), F. Mueller (5th copy),
Houdremont (6th copy),
E. Mueller (7th copy), Ihn (8th copy),
Eberhardt (9th copy),
Rademacher (10th copy)

TRANSLATION OF EBERHARDT DOCUMENT 240
DEFENSE EXHIBIT 479

TELETYPE FROM DEFENDANT EBERHARDT IN BERLIN TO MULHOUSE, 14 SEPTEMBER 1944, CONCERNING EVACUATION FROM MULHOUSE TO GERMANY OF MACHINERY AND OTHER MATERIALS, SOME OF WHICH BELONGED TO ELMAG

Copy

[Signed] Furler*

[Various marginal notations, illegible.]

Berlin, 14 September 1944

Subject: Your teletype of this date, your report on removal acknowledged.

Reference 1. Flak [antiaircraft] equipment. Since the machinery and installations for this manufacture are property of the [ELMAG] A.G., the Armament Inspectorate must proclaim the confiscation of this machinery in the name of the Reich, and order you to ship them to the Mitteldeutsche Stahlwerke which will take over the machines directly according to expediency.

Reference 2. Crankshafts. Comments will follow after conferring with Mr. Callen.

Reference 3. Acknowledged. What is the state of the tractor evacuation, i.e.?

a. how many machines have been dismantled?

b. how many have been loaded and shipped?

4. Very urgent

a. For purposes of supply of spare parts, the evacuation of the manufacture of spare parts for vehicles is extremely important; what has been done in this connection?

b. How far has the evacuation of stocks of spare parts progressed? How many railways cars have already been shipped?

5. How many machines from the gear production department have already been shipped?

6. Has the evacuation of the centrifugal castings production been ordered? If not, it would appear to be absolutely essential, since this important production must be resumed as quickly as possible in Blankenburg or at some other place.

EBERHARDT/go/si

---

* Professor Furler was an official in the Finance and Economic Department of the Chief of Civilian Administration in Alsace. Furler later gave his approval to the removal by Krupp-ELMAG of the flak (antiaircraft) machinery in question. (See Eberhardt 243, Def. Ex. 482, reproduced below in this section.)

TRANSLATION OF EBERHARDT DOCUMENT 242
DEFENSE EXHIBIT 481

DIRECTIVE OF BIEGI, CHIEF OF ADMINISTRATIVE DEPARTMENT OF KRUPP-ELMAG, 19 SEPTEMBER 1944, CONCERNING EVACUATION OF MACHINES AND OTHER MATERIAL FROM ELMAG PLANTS

Copy

ELMAG,[1] 19 September 1944
Bi/We. [Biegi/Weiz]

To:
Mr. Hupe
Mr. Balz
Mr. Perdrizet[2]
Mr. Doernenburg

In connection with the evacuation of certain manufactures, the following should be noted:

1. ELMAG, Elsaessische Maschinenbau A.G. has agreed that 102 machines of the flak production department shall be transported to some other place.

2. These machines should be recorded separately; a list should be furnished to ELMAG A.G.

3. If in addition the plant installations, tools, equipment, etc., are removed, it should be noted exactly whether the goods are property of ELMAG A.G. or ELMAG G.m.b.H. In each case, separate lists should be compiled and insofar as it deals with ELMAG A.G. property a copy should be furnished also to Mr. Dalmer.[3]

4. Every removal of ELMAG A.G. property from the plants at Mulhouse, Masmuenster, and Jungholz requires the special permission of ELMAG A.G. or the CdZ [Chief of Civil Administration]

5. In cases of doubt Mr. Doernenburg, who can give information on the ownership situation, should be consulted.

Signed: BIEGI

[1] "ELMAG" is the German abbreviation for the old French firm SACM. "ELMAG" by this time was being used in a broad way to refer to matters relating to the three ELMAG plants which were being administered and operated by Krupp. However, to distinguish between the original firm and the Krupp operated firm, Biegi uses the terms "ELMAG A.G." and "ELMAG G.m.b.H," respectively.

[2] Biegi, in an affidavit (Eberhardt 200, Def. Ex. 438, reproduced later in this section), states that Perdrizet was one of two Frenchmen "who had already held leading positions in the SACM," and who were later employed by Krupp-ELMAG.

[3] Mr. Dalmer was a provisional administrator for the ELMAG plants, appointed by the German Chief of Civilian Administration in Alsace.

903432—51——40

TRANSLATION OF EBERHARDT DOCUMENT 241
DEFENSE EXHIBIT 480

TELETYPE OF KRUPP-ELMAG TO DEFENDANT EBERHARDT AT "KRUPP ESSEN, ALSACE WORKS, MULHOUSE," 18 SEPTEMBER 1944, CONCERNING EVACUATION OF MACHINERY FROM MULHOUSE

[Stamp] Artillery Construction
19 Sept. 1944 No. 00580
Replied:

File II 29/05 x A
Official in Charge: Eberhardt
Copies to: Stou/Eberhardt/Rudolph

Krupp Essen
Alsace Works, Mulhouse, 18 September 1944, 1758 hours teletype 4790

To: Director Eberhardt

Subject: Your teletype of 16 September 1944, 1700 hours.

On the basis of our contract with Minister-President Koehler (compare the file memo submitted with our letter of 15 September) and a subsequent agreement between Minister-President Koehler and Reich Minister Speer, the complete evacuation of tractor [production facilities] is now a certainty according to a report of the armament inspectorate. Hence the tractor manufacture will cease toward the end of this month. For reasons of necessity, the manufacture of spare parts for tractors and vehicles will be transferred together with the tractor manufacture. The evacuation of crankshaft manufacture will also go on. No evacuation order has yet been received for centrifugal castings. The evacuation of 8.8 flak manufacture is definite. The confiscation of machinery for gun manufacture could not be achieved, but the A.G. [ELMAG] and CdZ [Chief of the Civil Administration] have already agreed according to article 13 (3) of the lease contract. The lease contract in respect to machines handed over to us [Krupp-ELMAG] will be worked out by the A. G. [ELMAG]. As soon as a more complete survey is possible, negotiations will be initiated concerning the reduced possibilities for utilization of the installations, also concerning the machines delivered, space made available, released personnel, reduction of facilities for settling expense accounts, etc.

[Krupp] ELMAG
Krupp Essen
Alsace Works, Mulhouse

[Stamp]
Teletype
Received: 18 September dispatched under R 1502. 96

TRANSLATION OF EBERHARDT DOCUMENT 244
DEFENSE EXHIBIT 483

FILE MEMORANDUM OF HUPE, A KRUPP OFFICIAL, 19 SEPTEMBER 1944, CONCERNING CONFISCATION OF MACHINERY, INCLUDING PLANT INSTALLATIONS BELONGING TO ELMAG, FOR DELIVERY TO GERMANY

ELMAG, 19 September 1944

File Memorandum

Subject: Confiscation [Beschlagnahme] of machinery

On Monday, 18 September, I again spoke with Lieutenant Colonel Streicher regarding the delivery of 102 machines for 8.8 flak manufacture on behalf of the Mitteldeutsche Stahlwerke, Groeditz, and asked that the written instructions handed to me during my visit on 17 September should be amended.

We agreed that the document mentioned should be amended to the effect that the 102 machines concerned as well as plant installations belonging to ELMAG A.G., should be placed at the disposal of Groeditz. The matter may be considered to have been settled in accordance with our wishes through negotiations with Mr. Dalmer and arrangements made by telephone with Professor Furler.

[Signed] HUPE

Distribution:
Dir. Collignon
Dir. Dr. Schumacher
Mr. Biegi
Mr. Balz
Mr. Zimmerman

TRANSLATION OF EBERHARDT DOCUMENT 243
DEFENSE EXHIBIT 482

LETTER FROM KRUPP-ELMAG TO PROFESSOR FURLER IN THE OFFICE OF CHIEF OF CIVIL ADMINISTRATION IN ALSACE, 22 SEPTEMBER 1944, CONCERNING REMOVAL OF MACHINERY FROM MULHOUSE PLANT

Copy

To:

The Chief of Civil Administration,
Finance and Economics Department,
Professor Furler
Strasbourg/Alsace

Bi/We [Biegi/Weiz], 22 September 1944

Dear Professor Furler,

We confirm our telephone conversation with you during which you expressed agreement to the removal by our firm of the machinery in the Mulhouse plant, which is required for the execution of the transfer of M 4 (flak) as ordered by the Reich Minister for Armament and War Production.

ELMAG A.G. has already given its written approval in this matter.

Heil Hitler!

[Stamp]

ELMAG Werke Elsass
Maschinenbaugesellschaft m.b.H.
[Initials] Co [Initials] Bi
[Handwritten] (Collignon) (Biegi)

TRANSLATION OF DOCUMENT NIK–6273
PROSECUTION EXHIBIT 1321

FILE NOTE OF HUPE AND SCHUMACHER, DIRECTORS OF KRUPP-ELMAG, 24 SEPTEMBER 1944, CONCERNING TRANSFER OF GUN MANUFACTURE FROM ELMAG PLANTS IN MULHOUSE TO FLICK'S* MITTELSTAHL PLANT IN GROEDITZ, GERMANY

[Handwritten] transferring

[handwritten note]
committee M 4 Dr. Weisser?
* * * Groeditz

File Note

Subject: Transfer of manufacture of the 8.8 cm. gun M 41 in the 8.8 cm. antiaircraft mount M 41

By order of the Main Committee Armaments, Director Hugo Kochskaemper and Engineer *Gruendker* of the firm Mittelstahl Groeditz visited us on 14 September 1944. According to the Special Committee, the entire production of the 8.8 cm. guns which we were starting to manufacture is to be transferred to Groeditz, that is, production there is to be increased from 25 to 50 guns. In order to achieve this increase machines and workers are required. A special list of the necessary machine tools has been compiled (altogether 102).

Labor—300 experienced workers are needed for Groeditz. We hope to be able to supply them as follows: 150 Alsatian workers (⅔ machine workers and ⅓ mechanics), the remaining 150 as far as possible trained foreign workers.

Apart from the workers, Groeditz would like to have the following personnel:

2 master workmen
2 plant technicians
3 machine designers
1 person to do preparatory work in connection with orders
1 calculator
1 person to deal with delivery term matters.

The ELMAG will thoroughly investigate whether these people can be spared.

Plant equipment—The equipment and special tools delivered by Rheinmetall will all go to Groeditz. Additional equipment which is being worked on here and designs will also go to Groeditz. In addition Groeditz will take over equipment which is still to be obtained from Rheinmetall Borsig.

* Officials of the Flick firm were tried in the case of United States *vs.* Friedrich Flick, et. al., Case 5, vol. VI.

Materials—The entire stock (about 265 tons) of material already delivered goes to Groeditz. The purchase orders for material not yet delivered will be assembled for Groeditz.

Delivery address: Mitteldeutsche Stahlwerke G.m.b.H.
Groeditz via Riesa—Machine Construction Department.

Similarly, the same applies to subgroups, standard parts, finished parts, etc., ordered elsewhere.

Administrative questions—How administrative work connected with the order is to be transferred from ELMAG to Groeditz has in no wise been discussed.

Execution of plans—In what order the machines are to be dismantled and shipped can be seen from special annotations in the machine list.

If freight cars are ordered in time, raw materials, semifinished and finished products will be sent with the machines. If not, construction material and equipment will be sent ahead.

How quickly the transfer is to take place will depend entirely on the transport situation.

According to agreements between the Supreme Command of the Wehrmacht and the Armaments Commission, the antiaircraft guns will be transferred in list 1b, that is, after the products named in list 1a have been transferred. Therefore, one cannot count on transportation (freight cars or trucks) being immediately available. It is not possible, for the moment, to say when the transfer can begin. Mulhouse, Alsace, 24 September 1944.
2/K

[Signed] HUPE
[Handwritten] HUPE
[Signed] DR. SCHUMACHER
[Handwritten] DR. SCHUMACHER

Copies to—
Groeditz (4)
Armament Inspectorate (3)
ELMAG:
Mr. Hupe
Mr. Collignon
Mr. Biegi
Mr. Koralek
Mr. Perdrizet
Mr. Zimmermann

TRANSLATION OF DOCUMENT NIK-10804
PROSECUTION EXHIBIT 1324

"CLAIMS AGAINST KRUPP (ELMAG G.m.b.H.)," 10 APRIL 1945, SUBMITTED BY SACM [ELMAG] FOR MACHINERY AND OTHER MATERIALS REMOVED FROM ALSACE TO GERMANY

SACM*

Mulhouse

Claims against Krupp (ELMAG G.m.b.H.)

		Reichsmarks
A.	80 machines removed for Groeditz 8 machines removed for Nuernberg 1 machine removed for Nordhausen 11 machines removed for Amalienhuette	589,945.00
	plus 25 percent for cost of transportation, cost of erection and electrical installation, etc., for the above-mentioned machines	147,486.00
	Various types of material removed for Groeditz	8,465.00
	Various types of material removed for Amalienhuette	7,300.00
	Various types of material removed for Kulmbach	17,576.00
B.	Tools of various kinds	48,907.00
C.	Furniture and technical archives	22,967.00
	Commercial records (office handling health insurance) Commercial records (Disburser's office)	for information
	Total amount of claim	842,646.00 Reichsmarks

MM Dollfus
Ludwig
Jacquemin (3)
Kauffmann

Maintenance Service, 10 April 1945

[Signature illegible]

* "SACM" is the French abbreviation for Société Alsacienne de Constructions Mécaniques. The Germans changed the name to Elsaessische Maschinenbau A.G. upon occupying Alsace.

2. AFFIDAVIT AND TESTIMONY OF DEFENSE WITNESS KURT BIEGI

TRANSLATION OF EBERHARDT DOCUMENT 200
DEFENSE EXHIBIT 438

AFFIDAVIT OF KURT BIEGI, FORMERLY CHIEF OF KRUPP-ELMAG ADMINISTRATIVE DEPARTMENT, 30 MARCH 1948, CONCERNING THE HISTORY OF ELMAG PLANTS DURING GERMAN OCCUPATION OF ALSACE

I, Kurt Biegi, born 28 August 1904 at Bamberg, resident Bamberg, Hauptwachstrasse 11, former Prokurist with the ELMAG Werke Elsass, Maschinenbau G.m.b.H. (ELMAG G.m.b.H.) at Mulhouse/Alsace, now business manager of the Suedwerke G.m.b.H. at Bamberg, which is the legal successor of the ELMAG G.m.b.H., know that I render myself liable to punishment by making a false affidavit. I declare on oath that my statements are true and were made in order to be submitted as evidence to the Military Tribunal at the Palace of Justice Nuernberg.

In view of my having belonged to the Krupp Motor Vehicle Department since 1935, I am generally informed about the history of the *transfer of this motor vehicle department from Essen to Mulhouse in Alsace* and from there to Franconia [central part of Bavaria] and am able to give, in outline, the following description of this matter:

The Motor Vehicle Department of the firm Friedrich Krupp in Essen (Krawa) was destroyed by air attack on 5 and 12 March 1943. Pursuant to a transfer order by the Army High Command, work was started at the end of March/beginning of April on the moving of the Krawa plant to the premises of the "ELMAG Elsaessische Maschinenbau A.G." (ELMAG A.G.) in Mulhouse. Side by side with this transfer of the technical plant, negotiations initiated by the Armed Forces High Command on occasion of their transfer order concerning the *conclusion of a lease agreement* were also conducted between the firm of Krupp as leaseholder and the firm ELMAG A.G. as lessor.

The ELMAG A.G. had the following history:

In Mulhouse, Alsace, there existed a "Société Alsacienne de Constructions Mécaniques" (SACM), which in peacetime had worked on the production of textile machines and other machines. After the occupation of the Alsace by German troops and after the appointment of a German Chief of the Civil Administration in Alsace, this French corporation was placed by the latter under the management of two German commissioners, Mr. Dalmer and Dr. Schumacher. Temporarily also a Mr. Ochel is said to have

acted as a commissioner. The commissioners during the period from 1940 up to spring 1943 switched the production of the firm to a great extent to the manufacture of war material. For this war material production, large purchases of machines were made by the commissioners. The firm headed by the commissioners went under the name of "ELMAG Elsaessische Maschinenbau A.G." and was a legal entity according to the German laws in force since 1940.

During the lease negotiations with the firm of Krupp, therefore, the two commissioners and the Chief of the Civil Administration appeared in Strasbourg as legal representatives of the ELMAG A.G. A special company was founded by the Friedrich Krupp firm for the purposes of leasing and managing the firm in Mulhouse and this was given the name of "ELMAG Werke Elsass Maschinenbau G.m.b.H." (ELMAG G.m.b.H). This explains why the preliminary agreement on the lease arrangement dated 31 March 1943* was concluded by the Chief of the Civil Administration on the one hand and the firm of Fried. Krupp on the other while the final lease contract dated 5 July 1944 was concluded by four signatories, namely the Chief of the Civil Administration in Alsace and the ELMAG A.G. as lessor, while the ELMAG G.m.b.H. and the firm Fried. Krupp were named as leaseholders.

There were no doubts as to the *right* of the Chief of the Civil Administration and of the commissioners appointed by him *to conclude such a lease agreement.*

The negotiations for the lease agreement were very lengthy, particularly because the provisional administrator of the ELMAG A.G., Mr. Dalmer, thanks to his very secure political position, was able to enforce his wishes very energetically. This was especially evident during the fixing of the lease price. In this I personally held the point of view that only a lease price of 1.3 million Reichsmarks per annum was warrantable. Mr. Eberhardt, who conducted the negotiations, however, very generously met Mr. Dalmer's demands and agreed to a lease price of 2.5 million Reichsmarks. Mr. Habermaas, at that time director of the ELMAG G.m.b.H., intimated to Mr. Eberhardt his refusal to accept the responsibility for this extraordinarily high lease price, and I recall that he told him at the time—"If so much rent is to be paid, do not expect profits from me."

In the course of the negotiations it soon became obvious that Mr. Dalmer wanted to gain something for himself personally; therefore, finally, a very generous payment of 50,000 Reichsmarks for Mr. Dalmer was included in the lease agreement.

The lease agreement included the whole enterprise of the ELMAG A.G. in the Alsace (excluding the enterprise at Grafen-

* Document NIK-6254, Prosecution Exhibit 1304, reproduced above in this section.

staden, which had previously been sold by the commissioners). The production of the ELMAG A.G. was to be continued while the Krawa from Essen, with its motor vehicle production, also moved to the premises of the firm. For simplicity's sake the old production of the ELMAG A.G. was called machine construction ("MaBA") and the vehicle manufacture "Krawa."

The MaBA production, at the time that the plant was taken over by the ELMAG G.m.b.H., thanks to the switch-over already undertaken by the commissioners, comprised at most 40 percent of the old machine production, of which only a fraction was the manufacture of the traditional textile machines. Otherwise the MaBA production consisted in the manufacture of war material. In keeping with the contractual obligations undertaken in the lease agreement, the ELMAG G.m.b.H. administered the whole of the enterprise *with the care of a good merchant* "while taking the greatest possible care to safeguard the stocks of the ELMAG A.G. and its structure up to that time."

Naturally the production of textile machines decreased even more, not only because the German officials allocated raw materials for such peacetime production only to a very limited extent, but also because the former export market for those Alsatian textile machines had been lost as a result of wartime conditions.

For guaranteeing the interests of the ELMAG A.G., provision had already been made by the fact that Mr. Dalmer remained in Mulhouse in Alsace and that the Frenchmen, Jacquemin and Perdrizet, who had already held leading positions in the SACM, offered their services as Prokurists to the ELMAG G.m.b.H. The second commissioner of the ELMAG A.G., Dr. Schumacher, was now working as manager, in particular for the MaBA production within the ELMAG G.m.b.H.

The plants of the whole enterprise were modernized and extended at great expense by the Krupp ELMAG G.m.b.H., so that this was bound to result in great commercial advantages for the firm. Here, among other things, the following should be mentioned: The conversion of the entire obsolete accounting procedure to new accounting methods, the installation of modern telephone equipment valued at more than 220,000 Reichsmarks, the extension of the winch-production in the plant at Jungholz, the extension of the foundry in the Masmuenster shops, and considerable investments for economic and social welfare purposes in the main works in Mulhouse. For the repair of the buildings and installations of the ELMAG A.G., more than 3 million Reichsmarks were spent—for the works kitchen, fire brigade, etc., more than one million Reichsmarks; and all that during a lease period which extended only over about 1½ years.

Great care was taken with the property and the plant installations of the ELMAG A.G. When on the occasion of the Motor Vehicle Department moving in from Essen, in accordance with the agreements with Mr. Dalmer and Dr. Schumacher, parts of buildings, where manufacture was in any case at a standstill, had to be cleared; machines, drawings, material, etc., as far as I know, did not suffer any damage and they were stored in such a manner that when the time came they could immediately be installed again. The French engineer Perdrizet, leading employee of the former SACM, bore joint responsibility for this duty. For the materials on hand which, in accordance with the lease agreement, were to be bought by the ELMAG G.m.b.H. from the ELMAG A.G. 13,380,954 Reichsmarks were paid, i.e., almost the full amount asked for by Mr. Dalmer. The small difference concerned chiefly the evaluation of property which had been earmarked by the commissioners of the ELMAG A.G. for a scrapping. Care was taken that there should be *a clear division of property* with regard to machines and plant installations, between the Maba and the Krawa manufacture. This did not prevent that, after having been duly marked in the lists, if necessary, some plant installations were exchanged. So some machines from the Krawa property were taken over for the Maba production, and in a few isolated cases, from the property of the ELMAG A.G. for the Krawa manufacture. The wages of the Alsatian employees were raised to the same level as those of the corresponding German employees. Similar concessions were also made in respect to Alsatian workers. The social welfare institutions were available equally to all members of the plant. Those exemplary measures of the firm of Krupp had the result that even Alsatians who did not like us politically stated that Krupp should have come 2 years sooner; then many misunderstandings in Mulhouse would have been prevented. When the end of the war was clearly visible to all reasonable persons, two opposing interests were evident in Germany as well as in the Alsace: one interest was the justified wish to *safeguard the economic means of production* and goods from the ever closer approaching fighting front; the other interest was the extraordinary *fear* of the officials of the responsible German authorities to show at that time any signs of defeatism, an attitude which, at the time, was looked upon as a crime which could be punishable by death without trial. Especially the German offices in the Alsace tried to avoid every measure which could be interpreted as defeatist behavior. This explains why the ELMAG G.m.b.H. at their request had already received a transfer order from the Reich Minister for Armament and War Production (Special Committee Tractor Production within the Main

Committee for Motor Vehicles) dated 2 September 1944, while the Chief of the Civil Administration, Strasbourg, opposed the transfer of the various types of production. He was perhaps also afraid of the political and moral effects on the Alsatian population if such a transfer became known.

Eventually the evacuation order by the Armament Inspectorate, Oberrhein, dated 13 September 1944, was transmitted to us.

During the precipitated dispatch of the more than 1,000 machines of the Krawa it is true that *9 machine tools and a quantity of smaller* equipment not belonging to the ELMAG G.m.b.H. (i.e., not even 1 percent of the total moved), were shipped as well. That this was a mistake in dispatch is clear from the fact that within the works of the ELMAG G.m.b.H. instructions had been given that all removal of ELMAG A.G. property from the Mulhouse, Maasmuenster, and Jungholz shops was subject to express permission by the ELMAG A.G. or the Chief of the Civil Administration. This machinery has meanwhile been returned to Alsace.

With reference to the approximately *100 machines,* which had to be forwarded at the time by the ELMAG to the Mitteldeutsche Stahlwerke *at Groeditz,* the factual and legal situation was different. In this case the order of the Armament Inspectorate Oberrhein for the evacuation of the 8.8 cm. pedestal and gun-carriage production applied. This production already came under the "Maba" production of the ELMAG A.G., taken over by us on lease. Since the ELMAG G.m.b.H. had no title to this machinery, we adopted the view that not one of these machines would be moved by us without the consent of the authorized persons, as laid down in article 2, section 2 of the lease of 5 July 1944. The literal copy of a letter written to this effect by the management of the ELMAG G.m.b.H. on 14 September 1944 has been attached as an integral part of this affidavit.* Hence the contractual conditions defined in article 2, section 2 of the contract were complied with. The transport of the machines to Groeditz was started only after this consent had been given. Those machines, by the way, were mostly those which never had been French property.

The cooperation with the Alsatian staff was very good up to the end. When, on 20 November, the American troops had already advanced westwards far beyond Mulhouse and the last German employees left the works at night they heard from their Alsatian fellow workers only friendly parting words.

Meanwhile the Krawa production was continued in Kulmbach and Nuernberg by the Suedwerke G.m.b.H., whose administrative

* The letter referred to, as well as the reply of the Finance and Economics Department of the Chief of the Civilian Administration in Alsace, is reproduced following this affidavit.

center is Bamberg. I assume that the firm in Mulhouse has gone back into the hands of the SACM. The Suedwerke has placed all available documents at the disposal of the French Military Commissions so that the *SACM can once more gain possession of those machines and plant installations* which by order of the German offices had to be shifted from Mulhouse at the end of 1944.

In addition, not only were considerable old *stocks* of the ELMAG A.G., for which we had already paid, *left behind* at Mulhouse, but also large stocks of the Maba production. Those stocks represent a value of 11,332,515 Reichsmarks which I presume will go to the French SACM. The repurchase of the stocks by the ELMAG A.G. as planned in article 8, section 2 of the lease contract did not come about, owing to the rapid developments of the war, so that the ELMAG G.m.b.H. was not refunded. Further, the Krawa production left behind in Alsace machines and stocks to the value of 3,832,558 Reichsmarks. They were among others, machines which in the hurry of the exodus were not taken along.

The SACM will now not only regain possession of its restituted machines, but also have those of our machines which were left behind at its disposal and also very valuable metal material. From those stocks which were left, a multiple of the costs for restarting production at the plants could be realized without any difficulty.

In conclusion I should like to say that the manner in which the firm of Fried. Krupp acted through its ELMAG G.m.b.H. in Mulhouse showed the greatest possible care and fairness from a business point of view, so that its *lease agreement* with local firms there has resulted in subsequent *economic advantages* rather than causing any losses. If such losses occurred, they were caused, in any case, by the catastrophic events of the war.

Bamberg, 30 March 1948.

[Signed] KURT BIEGI

Copy

To the
Chief of Civil Administration in Alsace
Attention of Prof. Furler
(17b) Strasbourg
Bismarckplatz 4
(Finance and Economics Department) Business Management Office

Bi/Bue 14 September 1944

Subject: Transfer of part of the ELMAG production.

Dear Professor:

We have today informed you that we have received through the Strasbourg Armament Inspectorate a transfer instruction applying largely to machines which we have leased from the ELMAG

A.G. You promised to inform us in the course of the afternoon whether these machines could be dismantled without further to-do. We shall promptly send you a precise list of the machines subject to the present transfer instruction. Unfortunately Mr. Dalmer could not be reached. Please give us at the same time your approval for the A.G. as well if possible. We again emphasize—as already confirmed by telephone—that we shall act in accordance with your instructions. The location of the machines will remain unchanged until information is received concerning the opinion held by Minister–President Koehler.

ELMAG Werke Elsass
Maschinenbaugesellschaft m.b.H.

Signed: BIEGI Signed: COLLIGNON

Copy

The Chief of Civil Administration in Alsace
Finance and Economics Department

Strasbourg, 19 September 1944

No. Wi/11207 RV Bismarckplatz 4

Transfer of part of the ELMAG production

Reference: Your letter of 14 September 1944 Bi/Bue.

Approval is given for the movement of the machines leased to you by the ELMAG A.G. which are subject to the transfer orders of the Reich Minister for Armament and War Production or of the Chairman of the Armament Commission. For the present, the terms of the lease concerning such machines continue in effect as heretofore. Until other provisions are made by contract, the ELMAG G.m.b.H., as lessee, remains responsible for these machines.

Signed: KOEHLER

To the ELMAG G.m.b.H., Mulhouse

EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS KURT BIEGI[1]

DIRECT EXAMINATION

* * * * * * *

DR. WEIZ (associate counsel for the defendant Eberhardt): What was your position in the ELMAG [Krupp-ELMAG]?

WITNESS BIEGI: I was a Prokurist for the ELMAG and I was in charge of the administrative department.[2]

* * * * * * *

[1] Complete testimony is recorded in mimeographed transcript, 29 April 1948, pp. 6251–6292.

[2] Since Biegi gives a narrative account of developments at the ELMAG plants in the affidavit reproduced above (*Eberhardt 200, Def. Ex. 438*), the balance of his direct examination concerning ELMAG has been omitted here.

MR. MANDELLAUB: You stated this morning, Witness, that Eberhardt was the liaison officer between Mulhouse and the Krupp Directorate?

WITNESS BIEGI: Yes.

JUDGE DALY, Presiding: Did you say Eberhardt? I didn't—

MR. MANDELLAUB: Yes, Your Honor.

Was the connection between the business management and Eberhardt a close one, despite the distance?

WITNESS BIEGI: It was. We had all technical possibilities for informing Essen about all important matters.

Q. Was there daily teletype communication between Mulhouse and Eberhardt's office in Essen?

A. When you say daily teletype communication, that is saying a little bit too much as far as it concerns Eberhardt's office. The Cast Steel Works was one of our main suppliers. Consequently, there was almost daily communication.

Q. Was the business management in Mulhouse given specific instructions on important matters by the business management in Essen?

A. Your question isn't quite clear.

Q. What instructions regarding the management of the factory did you receive from the Eberhardt office in Essen?

DR. WEIZ: I object to this question. The witness can only inform us on those orders that reached his really rather limited commercial sphere. He was not in charge of the whole enterprise in Mulhouse.

JUDGE DALY, Presiding: In his direct examination he was on several occasions questioned on things that quite obviously weren't within his own knowledge. Now, if he doesn't know anything, he can say he doesn't.

DR. WEIZ: You may answer the question, Witness.

WITNESS BIEGI: The business management of the ELMAG G.m.b.H. had its standing orders and they made it clear what aspects of the business had to be reported to Essen.

Q. You are talking about the statutes that you mentioned before and which show the dependence of the business management on Essen, are you not?

A. Yes, I am.

Q. You say Eberhardt was the liaison officer between ELMAG G.m.b.H. and the Krupp Directorate? Does that imply that the Krupp Directorate took part in the management of the works in Mulhouse?

A. The direction of a G.m.b.H. [company with limited liability] is carried out by the business management. But according to the

German G.m.b.H. laws, those holding interests in the company have certain rights and duties, and in this G.m.b.H. they also had to be observed.

Q. You didn't answer my question. When you call Eberhardt the liaison officer to the Krupp Directorate, does that mean that the Krupp Directorate also participated in the operation of the ELMAG G.m.b.H. within the framework of its competence?

A. Of course, instructions came from Essen. We made applications which were approved, and so forth.

Q. Witness, in the history of the Krawa transfer there were two transfers. One from Essen to Mulhouse and the other from Mulhouse to Bamberg—and that is to say, back to Germany. Did the same conditions exist when both transfer orders were issued? Were conditions in the case of the first transfer order the same as in the second?

A. Both transfer orders provided that the running production should be continued.

Q. In the second transfer, now, was the Krupp-ELMAG Directorate in Mulhouse actively interested in this transfer?

A. Yes.

Q. Did the Krupp-ELMAG management in Mulhouse encounter opposition from the local German authorities in this transfer?

A. What I said before is still true. The Nazi officials in Alsace did not like to see signs of defeatism.

Q. You are presenting reasons; I am inquiring as to facts. Did the ELMAG management run into opposition from the local German officials in Alsace on the occasion of the second transfer?

A. Yes, we had difficulties.

Q. Is it true that the Nazi authorities in Mulhouse offered serious opposition to this relocation?

A. Certainly, until we convinced them.

Q. But before you convinced them they did offer serious opposition, didn't they?

A. The battle raged back and forth.

Q. Well, it was opposition.

A. Yes, it was.

Q. Who in Berlin managed to push through the Krupp point of view?

A. Mr. Schnieders.

Q. Did Mr. Schnieders finally succeed in getting in Berlin a transfer order for Krupp?

DR. WEIZ: Let me interrupt here. I think that without Mr. Mandellaub intending it, the witness is somewhat confused here. We must differentiate between the transfer orders of the central office in Berlin—that was dealt with by Mr. Schnieders—and the local opposition.

MR. MANDELLAUB: Your honors, I am not interested in the defense counsel's testifying here.

JUDGE DALY, Presiding: You what?

MR. MANDELLAUB: I am not interested in defense counsel's testifying here.

JUDGE DALY, Presiding: Well, suppose you let the witness answer the question. If he is confused, you will have a chance on the redirect, Doctor.

MR. MANDELLAUB: Schnieders managed to get in Berlin a transfer order for the ELMAG G.m.b.H?

WITNESS BIEGI: Yes, from the Special Committee or Main Committee Motor Vehicles.*

Q. And this was necessary to overcome the local German officials' opposition?

A. No, it wasn't. This was one additional argument from another quarter proving that it was advisable to relocate this Motor Vehicle Department.

Q. It is true that Mr. Collignon an important figure in the ELMAG G.m.b.H. and an employee of Krupp, insisted that in case the transfer order did not come they should move from Mulhouse anyway?

A. It was our intention to do so.

Q. Did you inform Mr. Eberhardt of this intention?

A. Yes.

Q. Did he offer any objections?

A. Not that I know of.

Q. In what way was Eberhardt informed?

A. On the occasion of one interrogation that I had with you, you showed me the letter; it was done by letter.

Q. Was this information transmitted in a particularly secret way?

A. So far as I remember, it was done by courier.

Q. Is it true that a courier was used to keep the German authorities from knowing of this intention of Krupp's?

A. It did not seem expedient to let the German officials know of that intention of ours.

DR. WEIZ: Let me interrupt a moment and ask Mr. Mandellaub to tell me for the purposes of the defense what his present questions propose to prove in this trial. They sound more to me like an interrogation before a German People's Court—asking why one has concealed something from Nazi authorities.

JUDGE DALY, Presiding: We have never had that experience, Doctor, so we don't know what kind of interrogation that is.

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* See Schnieders' letter, a part of Document NIK-8908, Prosecution Exhibit 819, reproduced above in this section.

903432—51——41

DR. WEIZ: I am glad to say, praise be heaven, I haven't had it either but I should be much obliged for some explanation because I have to have some concrete indication of just what I am supposed to defend my client against and some concrete idea of how and for what reasons this cross examination is being carried out.

JUDGE DALY, Presiding: Will you explain, Mr. Mandellaub?

MR. MANDELLAUB: Yes, Your Honor, I will be glad to.

The purpose of this questioning is to show that the transfer of the plant from Mulhouse to the German side of the Rhine was done on the initiative of Krupp; that it was not an order and was not caused by an order but was done in the interest of Krupp. And this is why I asked this question—for the witness to bring the point out.

JUDGE DALY, Presiding: Is that clear now?

DR. WEIZ: I understand his words but I do not believe. I may insist on an explanation of their legal meaning—that is why I refrain from further questions.

JUDGE DALY, Presiding: Maybe after a few more questions the clarity will improve.

MR. MANDELLAUB: Witness, you just stated, if I understood you correctly, that Krupp—the Krupp firm—was going to circumvent the official channels and was going to take its own course in the matter of this relocation and that Eberhardt was informed via special courier of this intention.

WITNESS BIEGI: It might be more correct to say, "would have taken its own course."

Q. So the letter was sent?

A. Yes.

Q. To refresh your memory, may I read what is said in this secret letter—"we shall see to it that we shall receive the necessary transfer orders as soon as possible, but it is our intention, in view of the present circumstances, of undertaking such transfers even if such orders do not come through. If you are not in agreement with these measures I ask you to tell us so. Signed, Mr. Collignon."

Would you have anything to say about that?

A. That corroborates what I have said.

Q. Witness, in the ELMAG G.m.b.H. there were two separate types of manufacture?

A. Yes.

Q. One was the construction of machines, and the other was the building of tractors?

A. Yes. Krawa.

Q. Is it true that the transfer was to be carried out on the basis of the manufacture concerned—that is to say, the machines

that belonged to a certain type of manufacturer were to be shipped in a body?

A. The purpose of the whole transfer was the retention of a certain manufacturing capacity and for that reason obviously the machines should be kept together.

Q. Isn't it true that transfer means removing machinery on the grounds of technical considerations?

A. Technical considerations, or perhaps, even better stated, for reasons of importance of production.

Q. Is it therefore correct to say that in the transfer from Mulhouse to Germany these questions occupied the foreground, irrespective of who owned these various machines?

A. At the time when the Krawa was being transferred to Franconia I believe the importance of production or the technical considerations no longer played such a big part.

Q. Is it not true that in the transfers that took place at that time production actually did play a considerable role?

A. If a transfer order is to be issued, of course, there must be some technical reason for it. That's perfectly clear.

Q. In which transfer was Krupp—the Krupp firm—most interested?

A. In the transfer of the former Krawa production.

Q. On the occasion of this transfer of the Krawa machines was there also a number of other machines transferred as well? That is to say, foreign machines?

A. That I have already stated.

Q. When these machines were sent to Groeditz, did you yourself witness the loading of these machines in Mulhouse?

A. Yes.

Q. How many machines were taken from the buildings of the ELMAG at that time?

A. A total of 100 or 102 machines. Somewhere between 97 and 102 machines were transferred, of which roughly 10 were Krawa machines.

Q. That is to say, the vast majority of these machines did not belong to Krupp?

A. Ninety of those machines approximately belonged to the leased plant.

Q. That is to say, to the ELMAG, the French ELMAG?

A. To the ELMAG G.m.b.H.

* * * * * * *

Q. The question has been broached respecting the unpaid wages. You mentioned 800,000 marks that were not paid.*

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* Reference is made to wages due which were not paid to ELMAG workers and employees for the period 1–20 November 1944. Biegi, the witness here under examination, had sworn to this fact in an affidavit not reproduced herein (*NIK–11744, Pros. Ex. 1327*).

A. That is an estimated figure.

Q. Were you and Mr. Jacquemin able to sign a check drawing on the Deutsche Bank in Mulhouse?

A. No, because our assets at the Deutsche Bank in Mulhouse were not sufficient.

Q. Would not the Deutsche Bank in Mulhouse have honored such a check?

A. The Deutsche Bank if it had still been functioning on Monday the 20th, would on the basis of our signatures perhaps have accepted such a check, but it would first have inquired at Freiburg whether the check would clear.

Q. Did you make this effort?

A. I cannot recall having made such an effort because the payment of this sum of money to the workers was no longer possible, and if we had come to these people with a check, they would at least have attributed evil intentions to us.

Q. Witness, I am inquiring whether you could have gotten—I am saying that you could have gotten cash by writing out a check. Did you do so?

A. No, we did not.

Q. Nor did you make any such effort?

A. How could we have still paid out the wages and salaries?

Q. I am asking you whether you made the effort to cash such a check.

A. That would have been a shot in the dark.

Q. Witness, this question can be answered with yes or no. Did you make such an effort?

A. No.

JUDGE DALY, Presiding: Mr. Mandellaub, may I interrupt to ask a question at this time?

This 800,000 marks that was owing at the time, how long had that been owing, how long was that due on the payroll?

WITNESS BIEGI: That wasn't due at all, this payment. We kept our books as of the 15th of each month and on 15 November we had paid the final payments for October.

Q. Did you pay once a month?

A. We made an advance payment and then paid the final balance. The advance payment was due on the 30th.

Q. I say, did you make the payments once each month?

A. No, bimonthly, twice a month. At the end of the month an advance on payments due for the last month and on the 15th of the following month the balance of the wages due for the previous month, because we needed that intervening time in order to figure out the workers cards. Therefore, on 15 November, as in all the previous months and years, we had paid the balance for October.

Q. What I was getting at, Witness, as I remember reading your affidavit, you said that evacuation orders were received in September of that year, is that right?

A. Yes, that is true.

Q. Well, then you knew from September on that at any time you might be going away, didn't you?

A. In view of the military developments we had to count on that happening any day, yes, because at any day the front could be active again.

Q. You knew you were going any day. Why weren't you prepared to meet the payroll?

A. After August the situation seemed to be quieting down. We at first thought that the advance movement would continue but then right through September and October everything was quiet and we thought in general that everything would stay quiet until spring.

Q. How would the money have gotten into the bank for the payroll?

A. During the last months we got our money for the wage payments from the bank by drawing a check on the Freiburg Bank.

Q. Well, you had to have money in the bank to draw a check on it, didn't you?

A. We wrote a check or could write one on the Deutsche Bank in Freiburg on the other side of the Rhine. After a telephone inquiry these checks were honored by the Deutsche Bank in Mulhouse, but since the advance began on Sunday the 19th and on Monday everything was in a state of dissolution, it would have served no purpose at all to draw a check on the bank in Freiburg.

Q. You still had money in Freiburg in the bank, didn't you?

A. One and a half million, roughly.

JUDGE DALY, Presiding: That is all.

JUDGE WILKINS: Just one question for my own information.

Witness, isn't this what happened. The French troops had proceeded up along the Swiss border in August and had reached beyond Belfort, they had recaptured Belfort and stopped short of Mulhouse, and there they remained for a matter of 2 or 3 months until they took the offensive again in November, I believe, and then that is when you moved out, is that correct? Was that the situation; you were under bombardment for sometime during the last 2 or 3 months while you were there, is that correct?

WITNESS BIEGI: That is so, yes. On Sunday the firing of the tanks was to be heard in Mulhouse and on Monday they were on the heights above Mulhouse and blew all bridges that same day except for one over which we escaped in the night. The

advance developed into a pincer movement. I believe that they fought for some time for Mulhouse proper.

Q. Where did you cross then, immediately across the Rhine at Mulhouse or did you go up to Kolmar?

A. I went to Kolmar, Strasbourg and cross the Rhine at Strasbourg.

JUDGE WILKINS: Yes, thank you.

MR. MANDELLAUB: One or two more questions. When was Mulhouse occupied by the Allies in effect, on the 20th you say?

WITNESS BIEGI: The pincer movement around Mulhouse was closed on the 20th. The tanks were on the heights above Mulhouse the name of which I have forgotten, shooting into the town and our truck which was to fetch the last remaining Germans was not able to get back over the railroad bridge.

Q. When did you leave Mulhouse?

A. In the night of the 20th to the 21st, that is, from Monday to Tuesday.

Q. And the city was surrendered by the Germans only on the following day?

A. When the Germans finally surrendered the city I do not know. At any rate, on Monday the first Allied tanks were entering Mulhouse.

Q. Was the Deutsche Bank in Mulhouse open on Monday?

A. Dr. Mandellaub, I am afraid you have an erroneous impression of what happens in a factory when contradictory orders are coming continuously from the Gauleiter and everything is in a state of confusion. I can't tell you whether the Deutsche Bank was still open.

Q. You didn't inquire as to that?

A. I asked about various offices. They were all already gone, for instance, the courts were already gone.

Q. And you inquired then about the bank?

A. Yes, I did.

DR. WEIZ (for Eberhardt): May I ask one brief question?

REDIRECT EXAMINATION

DR. WEIZ: In connection with the questions just asked, Judge Daly brought to your attention the fact that the transfer order was dated as of September and that you might have had that money for the wages in readiness since you knew that sooner or later you would have to leave. Was it not so, Witness, that after the Krawa manufacture was evacuated and after the machines were transported to Groeditz, the remaining part of the enterprise in Alsace was to continue manufacture with the workers in Alsace and to continue to pay wages in a normal fashion as long as military developments permitted?

WITNESS BIEGI: Obviously. Since September we had attempted to convince both Mr. Dalmer and the Chief of the Civil Administration to adopt our legal point of view and again to take the administration of the factory into their own hands. There was enough money in the ELMAG A.G. to meet these final obligations and that was our money which we had paid for the stocks.

DR. WEIZ: No further questions.

JUDGE DALY, Presiding: Does that complete the examination of this witness?

DR. WEIZ: Yes, Your Honor.

JUDGE DALY, Presiding: The witness is excused.

JUDGE WILKINS: May I ask one question? Just one short question, Mr. Witness.

JUDGE WILKINS: As I recall, this plant had been used originally in the textile industry, machines that you found there when you went there were used in that particular industry, were they not?

WITNESS BIEGI: It was engaged in making those machines, yes, the main activity of the ELMAG A.G. in peacetime was the manufacturing of textile machines, not the manufacture of the textiles but of the machines with which to make them.

Q. And didn't they also make electric motors there?

A. No.

Q. Did you use some of those machines after you moved in?

A. You mean for our own manufacture?

Q. Yes.

A. Yes, we did.

Q. How did it happen you took these 102 machines, or whatever it was, 102 machines you said, when you left?

A. I am afraid you are in error, Your Honor. These 102 machines of which I spoke were transported to Groeditz. That was for the manufacture of the 8.8 antiaircraft guns.

Q. And did you say something about having taken 90 machines belonging to ELMAG A.G. which didn't belong to Krupp?

A. Quite so. Those 90 machines were taken to Groeditz along with the ten Krupp machines. That brought it to approximately 100 machines for the manufacture of the 8.8 [cm.] antiaircraft guns. That is where that number 90 comes from.

DR. WEIZ: Might I make one observation in this connection—I believe the number of these machines and just in what proportion they were transported to Franconia and Groeditz can be seen from the document books quite clearly.

JUDGE DALY, Presiding: All right. If there are no further questions, the witness will be excused.

F. Machinery of the ALSTHOM Firm in Belfort, France

I. CONTEMPORANEOUS DOCUMENTS

TRANSLATION OF DOCUMENT NIK–13448
PROSECUTION EXHIBIT 716

LETTER FROM NORTHERN FRANCE ARMAMENT INSPECTORATE TO SCHMIDT, GERMAN ARMY REPRESENTATIVE IN ALSTHOM PLANT, 16 APRIL 1941, STATING THAT GERMAN MILITARY AUTHORITIES ORDERED THE TRANSFER OF A LARGE BENDING MACHINE TO KRUPP'S PLANT IN RHEINHAUSEN

Copy

Armament Inspectorate C
(northern France)

Dijon, 16 April 1941

Dept. Z. III Br. No. 19157/41 (H/A)
Az. 66 m

Subject: Sheet-metal-bending machine with 9 meter bending length*

Reference: Chief Wi Rue Staff France, Dept. [Military Economics and Armament Staff France] 2c As. 67 d 16, 59/11/41 of 5 April 1941.

Firm—ALSTHOM—for the attention of Director SCHMIDT, Agent for the German Armed Forces

Belfort

The Military Economics and Armament Staff France, with the agreement of the Military Commander in France, has ordered that the sheet-metal-bending machine with a maximum bending length of 9 m., which is with the firm ALSTHOM, be removed and dispatched to the *Friedrich Krupp firm. Friedrich-Alfred-Huette, Rheinhausen.*

An official confiscation order will be handed to you by the Kreiskommandatur Montbéliard.

Ru In C (Armament Inspectorate C) will give you a receipt, on the basis of which the firm ALSTHOM may validate its compensation claims.

The Armament Inspector
signed signature

* As the ensuing documents show, two related machines were actually involved, a pre-bending machine (weighing about 58 tons) and the main bending machine (weighing about 270 tons). However, both in the documents and testimony, the two related machines are sometimes referred to as one machine and sometimes as two.

For information to:

OKM [High Command of the Navy] Berlin, M Wa Wi IV f

OKW Wi Rue Amt Rue 5/B [High Command of the Armed Forces Military Economics and Armament Office]

Wi Rue Stab Rue/2c [Military Economics and Armament Staff]

Firm Krupp, Friedrich-Alfred-Huette, Rheinhausen

Dept. Army

Dept. Navy

Field Office Besancon

[Handwritten note] Obtain confiscation order—*a.* Confiscation for use? (Possible according to the Hague Convention for Land Warfare) *b.* Confiscation for transfer of ownership? (Probably *not* possible).*

TRANSLATION OF LOESER DOCUMENT 68 DEFENSE EXHIBIT I

LETTER FROM ALSTHOM, SIGNED BY DIRECTOR KOCH, TO KRUPP, 11 JULY 1941, INQUIRING WHETHER KRUPP DESIRES TO BUY OR BORROW THE TWO BENDING MACHINES TRANSFERRED UPON ORDER OF GERMAN MILITARY AUTHORITIES

Société Générale de Constructions Electriques et Mécaniques
ALSTHOM

To Messrs. Krupp — Belfort, 11 July 1941

Rheinhausen
(Germany)

Attention: Dir. Schmidt

Agent for the German Wehrmacht

Triple-roller bending machine and pre-bending press, type Froriep

The 2 Froriep machines for the bending of various kinds of sheet metal from our boiler workshop at Belfort were placed at your disposal by order of the Armament Inspectorate at Dijon and dispatched to your Rheinhausen plant in part consignments—on 30 April, 15 May, 16 May, and 23 May 1941.

We should like to know whether you want to *buy the machines* or only borrow them. In either case, we should very much like to have these questions settled at an early date.

We should also be grateful if you would send a representative who could conduct these negotiations.

Very truly yours,
[ALSTHOM seal]
[signed] R. KOCH

[Handwritten note] OKM [High Command of the Navy] has instructed us to conduct the negotiations regarding the purchase of the machine and to report.

* The handwritten note at the bottom of this copy of the letter was written by Erich Thiess, commercial manager of Krupp's Stahlbau plant at Rheinhausen. See the extracts from the testimony of Thiess, reproduced below in this section.

TRANSLATION OF DOCUMENT NIK-6547
PROSECUTION EXHIBIT 698

LETTER FROM KRUPP STAHLBAU TO ALSTHOM, 23 MARCH 1942, OFFERING 108,700 REICHSMARKS FOR THE TWO BENDING MACHINES

Krupp—Stahlbau

Fried. Krupp Aktiengesellschaft—Rheinhausen

[Handwritten signatures]

MICHEL HABIB
GERTOFFER

Société Générale de Constructions Electriques et Mécaniques
ALSTHOM

38, Avenue Kléber
Paris (16e)
Dr. Th/Glae
Our reference: Stb.
Rheinhausen
23 March 1942

Taking over the triple-roller-bending machine and pre-bending press from your factory at Belfort.

We refer to the conference of 16 February with the military commander in France at the Military Economics and Armament Office [Wi-Rue-Amt—Wirtschaftsruestungsamt], in which Mr. Arnold* took part on your behalf.

We have meanwhile been empowered by the High Command of the Navy to carry on negotiations with you on the basis of the evaluation made for the information of the OKW. In conformity with this evaluation we offer you for the confiscated sheet bending machine No. 63250 and the pre-bending press No. 63240 inclusive of accessories, from you, the sum of *108,700 Reichsmarks.*

In offering the full amount fixed in the evaluation we have gone as far as possible towards coming to terms with you.

During the above-mentioned conference you were already advised of the channels through which you could put forward possible further claims via the appropriate Prefecture.

We request that you inform us of the acceptance of our offer as soon as possible, so that we can make the necessary arrangement for remittance of the amount due to you.

---

* Arnold was at this time the German representative at the ALSTHOM firm for the German Military Commander in northern France. See document immediately following.

TRANSLATION OF DOCUMENT NIK-6549
PROSECUTION EXHIBIT 701

LETTER FROM ALSTHOM TO KRUPP, 20 APRIL 1942, REJECTING PURCHASE OFFER FOR THE TWO BENDING MACHINES AND MAKING A COUNTERPROPOSAL

Copy

Société ALSTHOM 38 Avenue Kléber Paris (16e)

20 April 1942

Krupp-Stahlbau

Fried. Krupp Aktiengesellschaft

Rheinhausen

Export Department

LS/RS

Sheet-metal-bending machine and pre-bending press Belfort

We acknowledge the receipt of your letters dated 23 March 1942 and 9 April 1942, concerning the taking-over of the above-mentioned machines from our Belfort plant.

As already confirmed in our letter dated 24 February 1942, addressed to Dipl. Ing. A. Arnold, agent for the military commander at the ALSTHOM works, we have to decline your offer of *108,700 Reichsmarks,* as against this we have a claim amounting to *13,400,000 francs** for the two machines.

In our above-mentioned letter of 24 February 1942 we gave the reasons for our attitude. A copy of that letter is herewith enclosed.

Enclosure: 1 copy

Via Dipl. Ing. A. Arnold

Agent

* Approximately 670,000 Reichsmarks at the then prevailing rate of exchange. See the testimony of the defense witness Thiess, reproduced below in section VII F 3.

TRANSLATION OF DOCUMENT NIK-13449
PROSECUTION EXHIBIT 717

LETTER FROM THE HIGH COMMAND OF THE GERMAN NAVY TO KRUPP, 15 JUNE 1942, INDICATING TO WHAT EXTENT THE NAVY COULD ASSIST IN NEGOTIATIONS WITH ALSTHOM

[Stamp]
20 June 1942

HIGH COMMAND OF THE NAVY
M Wa Wi IV f 51 985/42

Berlin W 35, 15 June 1942
Tirpitzufer 72/76
Telephone: local 218281
long distance: 218381

[Illegible initials]

[Stamp]
He Hi
Thi H1
Ver H 2
Fac H 3
VJ H 4
V.A. H 5
V.Z. Br
T.E. B 1
Buc B 2
R.B.B. 3
Mat. W
Betr. Wa
Mon. Ma
Ahn. Are
Z.A.

To
Friedr.KRUPP
A.G.
Main Office
Berlin

Berlin W 35

Tiergartenstrasse 30/31

Subject: Triple-roller sheet-metal-bending machine from Belfort

Reference: Your letter of 7 May 1942 en/ke.

Upon receipt of your letter of 7th instant, investigations were made to ascertain how far the High Command of the Navy will be in a position to assist you in the negotiations with the firm ALSTHOM. No legal basis is given for intervention, e.g., the High Command of the Navy is not in a position to order the firm ALSTHOM to accept the price offered by the Krupp firm. Thus, the matter can be settled only by way of negotiations.

You are requested to contact the Commanding Admiral, France in order that he may take part in the negotiations. The Commanding Admiral, France, Paris, has, in the meantime, been

informed of the matter with the request to give you his active support in the coming negotiations.

It is, however, pointed out that the High Command of the Navy is not under any financial obligations to the Krupp firm or to the firm ALSTHOM.

By order:
[Signature Illegible]

Original sent to Krupp-Stahlbau, Rheinhausen.

Copy for Berlin

Berlin, 19 June 1942

Signed: Engelking

TRANSLATION OF DOCUMENT NIK–6552
PROSECUTION EXHIBIT 704

LETTER FROM THE OFFICE OF THE GERMAN COMMANDANT OF PARIS TO ALSTHOM, 1 AUGUST 1942, CONCERNING PRINCIPLES OF COMPENSATION FOR THE CONFISCATED BENDING MACHINES AND STATING THAT FURTHER PROTESTS WILL BE OF NO AVAIL

Intendant [Chief of Supply and Administration] with the Commandant of Greater Paris
Az 60 d Department A, 2
27/42

[Stamp]
5 August 1942
D.E.

Paris, 1 August 1942

Subject: Confiscated triple-roller bending machine

To the firm ALSTHOM

Paris

38, Avenue Kléber

This office has been ordered to deal with the question of compensation for the triple-roller bending machine confiscated in your plant at Belfort in April 1941 by order of the Armament Inspectorate at Dijon. The machine was confiscated by a Wehrmacht agency and a receipt was given. With regard to compensation, therefore, the policy agreed with the French agencies applies, which is laid down in the regulations. As to the question of compensation, it is of no importance that this machine was placed at the disposal of the firm Friedrich Krupp A.G. Rheinhausen.

According to the regulations mentioned above, the value at the time of the confiscation has to be paid as compensation by the

German Wehrmacht. This present value had been estimated at 108,700 Reichsmarks by an expert, and of this you have already been informed by the firm Krupp. The regulations issued, which are applicable to all confiscations made by the German Wehrmacht against a receipt, clearly state that the expense of replacing the confiscated movable property does not affect the amount of compensation. Also no compensation is made by the German Wehrmacht for invisible losses—lost profits, etc. Please take note that we cannot approve of your calculation of the present value, showing a total amount of 13,400,000 French francs, which you sent to the firm Krupp in your letter of 20 April 1942, as the expense of procuring new machines is taken as a basis for this calculation.

Please submit to us by 15 August 1942, under the above file number, the original certificates previously given to you. On receipt of the certificates the amount of 108,700 Reichsmarks will immediately be transferred to you.

Even now, we should like to point out as a precautionary measure that further applications will be useless, since there is no chance of success in this matter. The facts of the case in the foregoing matter are completely clear and further protest will be of no avail.

By order:
[Signed] Hegel

TRANSLATION OF DOCUMENT NIK-13450
PROSECUTION EXHIBIT 718

FILE MEMORANDUM OF THIESS, COMMERCIAL MANAGER OF KRUPP-STAHLBAU, 21 JULY 1943, CONCERNING A LEGAL OPINION AS TO THE CONFISCATION OF THE BENDING MACHINES

Dr. Th/Glae Rheinhausen, 21 July 1943

Subject: Triple-roller bending machine

1. According to information given by attorney-at-law Schuermann, the whole confiscation was carried out at the time in contravention of the rules of the Hague Convention for Land Warfare. This in itself, allows only seizure for the purpose of use, but not seizure with the intention of actual transfer of property.

2. According to Mr. Sieber,* ALSTHOM has now also rejected the amended estimate. On the part of the Intendant [with the Military Commander] for France there existed the intention to refer the whole matter back once more to the OKM for decision.

* Sieber was an administrative officer, according to the testimony of witness Thiess reproduced below in section VII F 3.

I have asked Mr. Sieber once more to make representations at the Intendantur [office of the Intendant] asking them to interpose their authority and to settle the matter, as the sending of files back and forth would not lead to anything. Mr. Sieber is of the same opinion and wanted once more to approach the Intendantur at the Military Commander's Office in this matter.

3. Furthermore, I asked Mr. Borchers to contact Mr. Geneuss once more for the same purpose, and to point out to him that the matter continues to be the responsibility of the Wehrmacht agency, so that it would be in their own interest to have the matter settled as soon as possible.

[Initials] TH [Thiess]

TRANSLATION OF DOCUMENT NIK–6556
PROSECUTION EXHIBIT 707

LETTER FROM THE OFFICE OF THE MILITARY COMMANDER IN FRANCE TO ALSTHOM, 24 JULY 1943, STATING THAT CONTINUED REFUSAL TO ACCEPT A REVISED AMOUNT WILL CAUSE THE GERMAN REICH TO REFUSE ALL COMPENSATION

Chief Intendant with the Military Commander in France

Paris, 24 July 1943
St

[Stamp]
27 July 1943
D E

Reference: Letter of Export Department Sc/00 dated 5 July 1943.

Subject: Application for compensation on account of the confiscation of a triple-roller bending machine in Belfort.

To the firm Sté. Générale de Constructions Electriques et Mécaniques
ALSTHOM

Paris XVIe
38, Avenue Kléber

A copy of the letter referred to was dispatched by the agent of the Armament and Procurement Staff in France with the ALSTHOM Works, Dr. Hans Schmidt. In this letter the newly amended compensation amount was rejected with reference to the statement of 24 February 1942.

It is once more made clear that by reason of the agreement between the French Delegation assigned to the German Armistice Delegation for Economic Matters and the German Armistice Commission, only the usual local value on the day of confiscation is to be compensated in the case of goods seized in France, and not the sum representing cost of reprocurement and loss of profit.

The estimate drawn up in your letter of 24 February 1942[1] therefore cannot serve as a basis for the calculation of the compensation, but only the purchase value, while taking into consideration the depreciation for 10 years of factory use. The value of RM 138,991.30 fixed by the expert Simonis[2] must be taken as a basis for the calculation of the compensation.

If the ALSTHOM firm persists in their refusal, in spite of the firm agreements existing between the two governments, then the payment of compensation must be refused on the part of the German Reich for all time.

Kindly inform us of your attitude by 30 July 1943.

[Signed] LENZ
Generalstabsintendant
[civilian with equivalent
rank of major general]

TRANSLATION OF LOESER DOCUMENT 126
DEFENSE EXHIBIT 495

FILE NOTES OF THIESS, 6 AUGUST 1943, CONCERNING FURTHER DEVELOPMENTS IN THE ALSTHOM NEGOTIATIONS AND GERMAN CONFISCATION POLICY IN FRANCE

Copy

Dr. Th/Ki

Stb., 6 August 1943

File Note

Subject: Triple-roller bending machines

Mr. Sieber informed us that the teletype letter from the OKM had been received by the Chief Intendant and that the matter was being discussed again. ALSTHOM has not yet come to a final decision but intends to do so by the end of next week.

According to Mr. Sieber, there are only minor objections being raised against unimportant details, so that it may be hoped to reach a final agreement before long. Prior to this, a joint journey of representatives to Berlin does not appear essential.

[1] See Document NIK-6549, Prosecution Exhibit 701, reproduced earlier in this section, which refers to the ALSTHOM letter of 24 February 1942.

[2] Simonis was an assessor working for the German armed forces.

We had hoped to learn from Borchers whether the confiscation order provided for the transfer of ownership or merely for temporary utilization. According to Mr. Sieber, this will no longer be ascertainable, as the files of the individual Kommandanturen [local German army headquarters] were as a rule destroyed when the offices were dissolved.

In general, confiscation orders in France provide for transfer of ownership.

Signed: DR. THIESS

TRANSLATION OF DOCUMENT NIK–6557
PROSECUTION EXHIBIT 708

LETTER FROM ALSTHOM TO FRENCH MINISTRY OF INDUSTRIAL PRODUCTION, 28 OCTOBER 1943, STATING THE BENDING MACHINE CONFISCATION CONTRADICTED THE HAGUE CONVENTION AND GERMAN-FRENCH ARMISTICE AGREEMENTS AND REQUESTING ADVICE

Copy

28 October 1943

To the Head of Department Mechanical and Electrical Industries (Ministry of Industrial Production)

for the attention of Mr. Pons
General Management
MD/CL

Dear Sir,

Confirming our recent discussion with Mr. Pons, we have the honor of drawing your attention to the confiscation of a bending machine carried out by the German authorities in our factories at Belfort in April 1941.

This confiscation appears to us to be in contradiction to the International Hague Convention and to the armistice agreements, in view of the fact that the machine was sent to Germany.

Originally the German authorities had asked us to settle the matter of the confiscation amicably by direct agreement between our firm and the Krupp firm at Rheinhausen, where the machine had been sent.

Negotiations had well advanced, but as no agreement could be obtained, the matter was taken up again by the German authorities (navy) which, on the basis of a report by a German expert (with whom we had never been asked to consult) fixed a compensation sum which we consider ridiculous and refused to accept.

Considering the importance of this machine for our manufacture and the considerable damage we have suffered through its

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loss, we take the liberty of asking you to inform us of what attitude you advise us to take.

We are at your disposal to provide you with all the information that you consider necessary for judging this matter.

Yours truly,
M. DANBON

TRANSLATION OF DOCUMENT NIK-6560
PROSECUTION EXHIBIT 711

LETTER FROM ALSTHOM TO OFFICE OF THE MILITARY COMMANDER IN FRANCE, 8 FEBRUARY 1944, INDICATING A DESIRE TO REGAIN POSSESSION OF THE BENDING MACHINE AND REJECTING LATEST OFFER OF COMPENSATION

Copy

Paris, 8 February 1944

Chief Intendant with the Military Commander in France
Paris

[Initial illegible]

Export Department
Sc/AR
Subject: Compensation for confiscated bending machine
Reference: Az 58 b- R 4.

Gentlemen:

Pursuant to your letter of 7 January 1944, we should like to call your attention to our observations of an earlier date and particularly to the arguments which we presented to you at our meeting of 30 July 1943.

Above all we wish—as soon as circumstances permit us to do so—to regain possession of a means of manufacture which is indispensable to us, and, as we told you already at our first meeting on 14 August 1941 with the chief engineer Eisfeld, we are ready to accept the return of the confiscated machine, while charging simply the cost of ultimate reconditioning.

In the absence of such restitution, the figure which, in our opinion, must be taken as the basis for fixing the value of the machine is not that of its purchase value but of its utility value, locally, at the date of the confiscation.

The new proposition which you have submitted to us—and in connection with which we contacted the French Financial Administration as you suggested—even though it is higher than the preceding ones, is not satisfactory to us on that point. It should, therefore, be understood that the payment which you propose to

us does not constitute a purchase price and that we reserve completely our right to ultimate restitution in kind; in other words, that it constitutes only a partial payment to be credited against a final financial settlement or to be deducted from the cost of reconditioning if the article is returned to us.

We are at your disposal to supply any additional information which you may desire.

Yours very truly,
[No signature]

P.S. In reply to the last paragraph of your letter, we inform you that we have an account with the Banque de France (direct account) 1, Rue du Colonel-Driant, Paris 1.

TRANSLATION OF DOCUMENT NIK–13451
PROSECUTION EXHIBIT 719

LETTER FROM KRUPP-STAHLBAU TO KRUPP'S "LIAISON OFFICE 'EVACUATION'" IN PARIS, 18 JULY 1944, CONCERNING ALSTHOM AND FRENCH ATTITUDE AND KRUPP'S CONTINUING INTEREST IN ACQUIRING TITLE TO THE BENDING MACHINE

Krupp-Stahlbau
Fried. Krupp A.G.

Rheinhausen, 18 July 1944
By German Army Mail!

Please quote in your reply: Kzl Th. No. 1309

[Handwritten] Returned to Dr. Thiess. The matter was not pursued further in Paris owing to the prevailing circumstances.

[Stamp] Received on 24 July No. 649/44

To Fried. Krupp Liaison Office "Evacuation" Krupp-Stahlbau
Attention of Mr. v. Haller

Paris
Via Postoffice of
Luftgau Paris

Subject: Triple-roller bending machine

We have still to conclude arrangements with the Intendant with the military commander in France for the financial settlement in respect of the triple-roller bending machine confiscated from the firm ALSTHOM. You will find the rough outlines of the facts in the attached copy of our letter of July 6, 1942. Since that time little progress has been made in the matter.

The situation is as follows:

The Intendant with the military commander has certain scruples about forcing the French to accept a compensation which

would, under German conditions, be acceptable. Step by step he has gradually advanced the compensation offer to RM 190,000.

The French who, of course, are not in the least interested in the settlement of this matter, are continually making new excuses and new claims. For some months they have taken refuge in negotiations with the French Government, which is to take over that part of the financial loss not covered by the German compensation. Presumably this problem will become more and more difficult, as the difference between the official and unofficial prices in France is increasing from day to day.

We, on our part, are extremely interested in acquiring the machine finally at the estimated value of RM 190,000. But we decline direct negotiations and dealings with ALSTHOM, as we are of the opinion that the machine was confiscated by the German Armament Inspectorate and thus it devolves upon the German *authorities* to arrange the settlement with the French; after that we shall settle with the German authorities.

The above statements serve only to inform you of the rough outlines of the facts of the case. *Before you* enter into any negotiations in this matter, please *obtain* more detailed *information* when making a *visit* to Rheinhausen. It would, however, be advisable for you to contact personally the gentlemen concerned right away and make inquiry about the present state of affairs.

The present chief of the Intendantur with the military commander is Oberstabsintendant [civilian with equivalent rank of major] Dr. Hollwich, who, on his part, would probably be willing to help us. The actual man in charge is Oberzahlmeister [civilian with equivalent rank of first lieutenant] Schar, our impression of whom is unfavorable and, more recently, Oberzahlmeister Schindler, who is unknown to us.

We request you to hand them the attached letter at your convenience.

[Stamp] Fried. Krupp-Stahlbau

[Signed] THIESS

1 Enclosure

2. EXTRACTS FROM THE TESTIMONY OF PROSECUTION WITNESS ROBERT KOCH*

DIRECT EXAMINATION

MR. MANDELLAUB: You are Mr. Robert Koch?

WITNESS KOCH: Yes.

Q. What was your position or is your position with the ALSTHOM?

* Complete testimony is recorded in mimeographed transcript, 22 January 1948, pp. 2110–2148.

A. I am director of the technical service of the ALSTHOM Société at Belfort.

Q. Since when have you been with that firm?

A. I joined the firm in 1921.

Q. And you are still there?

A. Yes, I am still there.

Q. Were you in Belfort at the time when the machine was taken away from there?

A. I was present, and I even witnessed this incident.

Q. Did you object to the taking away of that machine?

JUDGE WILKINS, Presiding: (to interpreter) Can you remember all that?[1]

INTERPRETER: Yes, sir.

WITNESS KOCH: Yes, we objected the same day and the main grounds were that this machine was the only one on which our whole manufacture in the boiler construction field was based, also for the manufacture of high-pressure tubes this machine was essential, and we also objected on the grounds that this machine was not at all used for military purposes.

MR. MANDELLAUB: Did you intend at any time to sell this machine?

WITNESS KOCH: No, we never had the intention of selling the machine. We even protested against the loss of this machine because the machine was part of our assets. We sold part of our production, but we would never have agreed to sell any part of our assets.

Q. Was it clear to you at the time that this was the firm of Krupp which was interested in this machine?

A. Yes.

Q. Please, would you pause at certain intervals in order to give the interpreter an opportunity to translate.

JUDGE WILKINS, Presiding: That would be better, yes.

WITNESS KOCH: Yes, we immediately realized that it was for Krupp, because an engineer of the Krupp Works, by the name of Eisfeld,[2] together with a German officer of the Armament Inspectorate of the Naval High Command, came to inspect the machine; and then a day later, German mechanics of the Krupp Works came and dismantled the machine and sent it to the Krupp factory in Rheinhausen. We heard only later that the machine was used for war production.

MR. MANDELLAUB: Formerly this machine was never used for war production?

A. No, never.

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[1] Judge Wilkins refers to the witness' answer which begins, "Yes, we objected the same day ***." The answer was first given in French and following Judge Wilkins' interruption was interpreted in English.

[2] Eisfeld was the plant manager of the Krupp-Stahlbau plant in Rheinhausen, Germany.

Q. After the machine was removed from Belfort, did you receive any payment from the Krupp firm?

A. No, we never received any payment for the machine that had been taken away from Belfort. We asked Krupp, first of all, that our machine should be sent back to Belfort, and in case that should not be possible, we asked that Krupp order for us new machines of identical nature, and we gave our agreement that we would pay the difference between the value of the new machine and of the used machine that was taken away. Besides that, we also demanded an indemnification, firstly to cover the period during which we were unable to produce because of the fact that the machine was not at Belfort, and secondly, to cover the supplementary expenses we incurred because of the fact that we had to produce with machines of minor value.

Q. Am I right to say that you were not interested in any monetary indemnity for that machine, that on the contrary you were only interested in the physical machine itself and wanted to have it in your plant?

A. Yes, that is correct.

Q. Is it true also that a payment in money at that time could never replace such a machine?

A. No, that was impossible.

Q. When you did not agree to the terms of Krupp, were you threatened with the intervention of the German military authorities in France?

A. Here's what happened. After several months of discussion, the Krupp factory suggested to us a price of purchase of about 108,700 Reichsmarks for the total of machines taken away from Belfort.[1]

Q. Would you please at this point—

A. Here's what the situation was. We never accepted this purchase price of 108,700 Reichsmarks, because it was inacceptable for us; however, in France we had a decree by de Brinon[2] to the effect that in cases of seized or requisitioned property the owner was obliged to negotiate with the German authorities. If he failed to do so, he would lose all claim to the machines in question. We continued to negotiate with Krupp months and months without result, but I think toward 1942—in order to answer quite clearly the question put by the prosecutor, I cannot guarantee that it was 1942, but I think that was the time we were informed by Krupp that we had to accept this purchase price of 108,700 Reichsmarks. If we didn't, the purchase price would be fixed by either—I don't quite remember—either the

[1] The French town of Belfort was the site of the ALSTHOM plant.

[2] Ambassador extraordinary of the Vichy government in the occupied part of France.

OKM, Naval High Command, or the OKH, Army High Command, in Berlin, and that was at least a hidden threat.

JUDGE WILKINS, Presiding: You mentioned a decree by de Brinon.

MR. MANDELLAUB: I could answer that question.

WITNESS KOCH: De Brinon, without having the official title, was what you might well call the Frenchman who represented the Germans in the occupied zone.

MR. MANDELLAUB: May I add that this de Brinon was later executed.

JUDGE WILKINS, Presiding: By the French?

MR. MANDELLAUB: Yes, by the French.

* * * * * * *

JUDGE WILKINS, Presiding: There are just one or two things that I didn't understand. Did you say, Witness, what you used the machine for?

WITNESS KOCH: Our machines were used for the production of boiler drums and of high-pressure tubes for hydraulic machines, and also for big water containers. All this was needed for our big boiler production at Belfort.

Q. In what kind of production?

A. Boiler drum production.

Q. What kind of boiler? For steam engines?

A. Steam turbines, Your Honor.

Q. Well, now, if you had received the price offered, or any other price in money, could you have purchased at that time another machine which would have served the same purpose?

A. No, Your Honor. To illustrate that, I can tell you that the offer made to us was 108,700 Reichsmarks. Now, if I take into account the exchange rate of that period, and if I add to it the costs of the electrical equipment, which we produced in our own factory, then according to an offer we received from the Wardi factory during the same period, the purchase price of equivalent machines would have amounted to 14–15 million francs.

Q. Well, that was not the import of my question. Was there available on the market another machine that you could have purchased, assuming that you had the funds with which to do it?

A. In France you mean, Your Honor?

Q. In any market that was open to you.

A. The only market open at that time were French and German markets, but in order to purchase these machines we would have had to have authorized money, and this government-authorized money, that is, money by legal transfer, which could be used for these purchases, could not have been given to us by Krupp at that time.

Q. Now, just one further matter. I didn't quite understand what you said about this decree of this unofficial representative of Germany in France, this Frenchman.

A. The substance of the decree was the following. I don't know exactly the wording or the details, but the substance was the following: if the owner of a requisitioned installation, or machine, or property, refused to negotiate the sale with the German authorities, then after a clearly defined period, it might have been 6 months, or 12 months, or more, he lost all claim to indemnification.

Q. Well, now, you speak of a decree. Normally, we regard that as being some kind of an official document.

A. I have used a bad term when I said "decree" because it wasn't actually a law or decree. It was rather information given to us.

Q. What you mean is that this man just told you that?

A. Yes, Your Honor.

JUDGE WILKINS, Presiding: All right. Doctor, that is all I had in mind.

CROSS-EXAMINATION

DR. BEHLING (counsel for defendant Loeser): Witness, since 1921 you were technical director of the ALSTHOM?

WITNESS KOCH: No, not since 1921.

Q. You said, however, at the beginning of your direct examination that since 1921 you had been working for the firm of ALSTHOM?

A. Yes, that is correct.

Q. What was your position there?

A. I was first of all an engineer in the testing department for steam turbines. Then I became chief engineer in the office for steam turbines and condensers, and eventually I became director of the technical department, and I was appointed director in 1936.

Q. If I understood you correctly, you have been a director of that firm from 1936 until today?

A. Yes.

Q. Is it correct that in April 1941 you were visited by a German naval officer?

A. That is what I said myself during my direct examination. In April 1941, I don't know the exact date, but I can look up in my papers if necessary, I had a visit by a naval engineer who came from Dijon. I think he was a German naval engineer, and he came together with engineer Eisfeld of Krupp.

Q. In your affidavit of 23 June 1947, NIK–6476, Prosecution Exhibit 694, you state that the visit described just now of this

German naval officer who came together with the engineer Eisfeld was preceded by the visit of another German naval officer.

A. I was referring to one and only one naval engineer. It is always the same. Now, if I am not very much mistaken, the whole matter was as follows: One morning a naval officer of the Navy High Command came to see me, and he didn't talk to me about anything to do with this matter, and he left me about 11 o'clock a.m. I have to add that I went with him to the factory, but he made no definite statement there; and then he came back in the afternoon, but he didn't come to see me, he went directly to the factory and he told the personnel there that they could go on working with the machine, but that the machine should not be moved. Then a couple of days later, it might have been the next day, I don't know exactly when, Eisfeld came together with three or four engineers from Krupp, and they dismantled the machine and made it ready for shipment, and it was at this moment that we received the confiscation order for it.

Q. Then we must differentiate between two visits?

A. When you speak of two visits, here is how I see it. There was one visit, when the German officer arrived, and examined the machine, and then the following visit, when the engineers arrived and dismantled the machine, and that was all. There were no others.

Q. At this first visit, was an official of the firm of Krupp present?

A. I am afraid I couldn't tell you, because none of these gentlemen—neither the naval officer nor the people who accompanied him—gave me the honor of introducing themselves. You see, they were the masters and they felt they could do whatever they wanted. He just introduced himself as a naval officer who had come to inspect the machines, and I couldn't even tell you who went to the factory in the afternoon.

Q. Did the gentlemen whom you saw wear uniform, or were they civilians?

A. I would rather not answer that question, because if I am not quite sure of what I am going to say, then I don't want to influence the judgment, but what I can say is that there was one naval officer. For the rest, I don't want to commit myself because I am not sure.

Q. Were the other people army officers?

A. I said already I couldn't tell you. I couldn't even tell you whether they were in uniform. I know there were two or three, but I couldn't give you an exact figure.

Q. At any rate, you cannot state with certainty that during this first visit a member of the firm of Krupp was present?

A. The simple reason why I can't affirm or assert that is that these gentlemen, as I said, didn't give me the honor of introducing themselves, and the first man who was introduced to me as an engineer of Krupp was introduced by Mr. Eisfeld when they came to dismantle the machines.

* * * * * * *

Q. Witness, I first want to say something else, excuse me. Was this the only machine which you had in your factory, or was there a second one similar to it?

A. The only machine of this kind.

Q. Did your competitor in Bordeaux have a machine similar to yours?

A. Well, you see, I have never seen that machine at Bordeaux, and besides, this Bordeaux factory was no competitor of ours. They built ships and didn't construct boiler drums, and also, I don't think that it was a machine of the size and importance of ours.

Q. However, you never saw that machine, did you?

A. No.

* * * * * * *

Q. When did you for the first time protest against the seizure of this machine?

A. We protested right away verbally and we protested to the representative, that is, to the agent [of the Wehrmacht] Dr. Schmidt, who was in our factory. And the first written protest was a report countersigned by Eisfeld, in behalf of Krupp, by Kreissler, in behalf of the agent, Dr. Schmidt, and by myself—a report which, if I am not mistaken, was dated May or June, but I rather think June 1941.

Q. You said you first protested verbally. Did that take place on the occasion of the dismantling of the machine, or previously?

A. What do you mean by before that? Do you mean the first time these gentlemen came to my office? They didn't tell me they were going to take the machine away, so what reason would I have to protest? The first time I could talk to Mr. Eisfeld, when he introduced himself, was at the time they dismantled the machine, so I had no possibility of protesting before that.

Q. Mr. Witness, but you said that on the same day, that is, on the afternoon of that day when you received the visit of the German officer, a sign "Seized," had been affixed to the machine. Did you protest on the same afternoon or on the following morning?

A. Well, I can put it this way—during the afternoon when these people came to our factory and when they put up this

sign, "Beschlagnahmt"—seized property—the German personnel had done that—we at first had the idea that this meant that the machine would be temporarily at the disposal of the German authorities, but that it would remain in the factory. We confined ourselves to going to the agent and telling him that under no circumstances could the machine leave our factory, because it was absolutely essential for our production. That is all we did at that time. I think—we have no written proof for that, but I think—the agent transmitted our protest. I have to add that at the moment when Eisfeld and his men came to dismantle and take away the machine, the agent Dr. Schmidt, or his deputy informed us that a similar machine could be placed at our disposal from Bordeaux; but it was a machine which was in no way fitted for our production needs. The reason was that this machine was only intended for rolling thin plate, and not the thick plate we used for our boiler production.

* * * * * * *

JUDGE WILKINS, Presiding: Now, if you don't mind an interruption, I would like it if you would clarify the term "agent" that you have used, Doctor. I don't quite get the significance of that. That word has been used two or three times.

WITNESS KOCH: Director Schmidt originally was a representative of the AEG, of Germany, that is the "Allgemeine Elektrizitaetsgesellschaft" [General Electric Company] in Berlin, and then one day we received a notification from the Armament Inspectorate of the German Army in Dijon, informing us that Director Schmidt had been appointed "Bevollmaechtigter," that is, the agent, for our factory, that is, he controlled all our work, our production, and the special kind of production we had to carry out for the benefit of Germany. He controlled the contracts of our plants. He held all the executive powers. In other words, he controlled the whole works.

* * * * * * *

DR. BEHLING: Witness, you will concede that on 11 July 1941,* the question of selling the machines to Krupp or letting them use them on loan was still quite open?

A. What we wanted to know were the intentions of Krupp. I think that this letter was written after Eisfeld's visit, and Eisfeld in his report had told me that he had no authority to make a decision; so I was faced with a situation where I was in a position to decide and was negotiating with somebody who had no powers to decide; and therefore I approached the Krupp

* On 11 July 1941, ALSTHOM wrote a letter to Krupp concerning the bending machines, which is reproduced earlier in this section (Loeser 68, Def. Ex. 1).

firm in this letter, asking for a clarification with regard to Krupp's intentions. Our position had been clarified at that time. My factory told me, "We want to keep these machines," and we had no information yet from the other party. Krupp hadn't stated any intention yet as to what they wanted to do with these machines; so what we wanted to know was what were the intentions of Krupp. But under no circumstances can you construe from this letter that at that time I had any intention of selling these machines.

Q. How did you know that the firm of Krupp had the final right of disposal with regard to this machine?

A. I don't understand your question.

Q. You approached the firm of Krupp in this letter of 11 July 1941. How did you know that Krupp could make the final decision regarding the fate of this machine?

A. You see on the letter that we have written to Krupp the words, "care of Director Schmidt," you must conclude from this that he was the man who told us that Krupp would be the agency to decide.

JUDGE WILKINS, Presiding: May I ask you a question, just a minute. Mr. Mandellaub, I suppose you are quite anxious to finish with this witness so that he may be released?

MR. MANDELLAUB: Yes, Your Honor.

JUDGE WILKINS, presiding: We are running over now, but I think, to accommodate him, we will continue unless it is going to be too long.

MR. MANDELLAUB: Thank you.

JUDGE WILKINS, Presiding: Do you have any more questions, Dr. Behling?

DR. BEHLING: Only very brief questions.

Mr. Witness, Director Schmidt wasn't an employee of the firm of Krupp after all, was he now?

WITNESS KOCH: No, he wasn't an employee of Krupp, but for us he was the only liaison officer. The only channels we could use to approach any German authority, an authority of the occupation force or any German firm via this Director Schmidt; that is why this letter is headed care of Director Schmidt, and that is why he was the man who told us that we should address the letter to Krupp.

Q. Then it is more of an accident that the letter was addressed to Krupp?

A. I hardly think that you can term it a mere accident, because we had to write to somebody, and I think it is rather comprehensible that we would address our letter to the firm which had our machines, because we had seen the freight cars and we

had seen that the machines were going to Rheinhausen. We were big enough boys at that time to be able to read what it said on the freight cars. So it wasn't a mere accident that we approached Director Schmidt and established the fact that our machines were at Rheinhausen and decided to address ourselves to Krupp.

DR. BEHLING: I have no further questions.

3. EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS ERICH THIESS*

DIRECT EXAMINATION

* * * * * * *

DR. WENDLAND (associate counsel for the defendant Loeser): Are you still working at Krupp's today?

WITNESS THIESS: Yes.

Q. Where do you work?

A. Krupp-Stahlbau, Rheinhausen.

Q. What is your position?

A. Commercial manager.

Q. How long have you had this position?

A. Since 1 April 1941.

Q. In your activity as commercial manager of Stahlbau Rheinhausen, did you ever have anything to do with the dismantling of the sheet-metal-bending machine of the firm of ALSTHOM and the setting up of this machine at the firm of Stahlbau Rheinhausen?

A. With the dismantling and the setting-up, I had nothing to do, because it did not come within my sphere of activity.

Q. Did you conduct negotiations about the purchase of the machine by Krupp?

A. Yes. Yes, I did. During a later stage, after the technical experts had negotiated, I was asked to participate in the negotiations at the beginning of 1942.

Q. Did negotiations concerning the acquisition of the machine take place prior to that?

A. Yes.

Q. How did these first negotiations go?

A. As far as I am informed, our plant manager, Eisfeld, went to Belfort in the fall of 1941 in order to negotiate with the French about the possibility of the purchase.

Q. When was that?

* Complete testimony is recorded in mimeographed transcript, 30 April and 1 May 1948, pp. 6407–6465.

A. That must have been, I guess, in the late fall of 1941.

Q. Do you know on whose initiative the negotiations were started?

A. A few weeks prior to that we had received a letter from the firm of ALSTHOM in which they asked us to tell them whether we would be interested in purchasing the machine.

Q. May I call the Court's attention to the fact that this is the letter which is marked Loeser Document 68, Defense Exhibit 1[1] and was presented to the witness Robert Koch.[2]

What was the price offered by Stahlbau Rheinhausen to ALSTHOM?

A. I don't know and I don't remember whether the price was discussed at that juncture.

Q. Was an evaluation of the machine made in 1941?

A. After the machine had been set up we called in an accredited expert of the Duisburg Chamber of Trade and asked him to make his estimate.

* * * * * * *

Q. Dr. Thiess, I would like to repeat a preliminary question so that we get the proper continuity. When was it that you were asked to participate in the purchase negotiations with ALSTHOM?

A. Beginning of 1942.

Q. And were there any previous negotiations?

A. Yes.

Q. What course did the negotiations take when you were present?

A. It was around the New Year, 1941–42, that an expert from the High Command of the Navy appeared, his name was Administrative Councilor Simonis. By order of the OKM he was to make a new evaluation of the machine. I think it was the intention that this new evaluation was to provide the basis for the negotiations with the OKM concerning compensation. We, on our part, were interested in clarifying the further course of the matter. On the basis of the letter from the French people we had entered into direct negotiations. Now the navy interfered and took up the matter on their own part. Therefore, I went to Paris.

Q. When was that?

A. The first half of February 1942, in order to discuss with the economic and armament office how the matter was to go on. Of course, all this was 16 years ago and my data on that part of the proceedings are no longer available. Therefore I do not re-

[1] Reproduced earlier in this section.

[2] Extracts from the testimony of Koch, a director of ALSTHOM, have been reproduced above in this section.

member all the details. At the Economics and Armament Office—

Q. Would you give us the full name of this office you have been using in abbreviations?

A. It was the Economics and Armament Office with the military commander, France. Apart from the man in charge of this particular affair I also met the agent of the military commander with the ALSTHOM firm I think his name was Arnold but I am not quite sure, but as far as I remember his name was Arnold. And in a comparatively vague form we discussed the further course of the proceedings. I think we also discussed the evaluation; in this connection Mr. Arnold was in favor of a higher price, and the German authorities and we ourselves were in favor of a price fixed on the basis of the estimate.

Q. Did ALSTHOM demand any definite price at that time?

A. Not as far as I remember.

Q. Only they didn't like the price that you were prepared to pay?

A. Well, I don't quite remember whether at that time an offer had already been made or was discussed. At any rate the result of my visit was that we asked the High Command of the Navy in Berlin whether they would agree if we started negotiations with ALSTHOM on the basis of the evaluation by Mr. Simonis.

Q. Why did you ask the OKM about this?

A. Because the machine had been requisitioned by the OKM. In view of the letter from ALSTHOM dated June 1941 we had at the time inquired in Berlin whether we would be allowed to take up negotiations with that firm and had received the reply that we could do so but that we should keep Berlin informed.

Q. Was the OKM interested in the price that you would possibly pay?

A. The OKM was interested for two reasons: first of all on account of the compensation they would have to pay for the requisition, and secondly because that machine was supposed to do exclusively sheet-metal-bending operations for navy production, and the price for carrying out these sheet-metal-bending operations was to be fixed on the basis of the price that had been paid for the machine.

Q. In which way would the price you paid for the machine have influenced the price for the bending operations?

A. Mainly because of the depreciation rate and the rate of interest that had to be paid.

Q. Well, what happened then?

A. In the meantime, a parallel course had been taken in Paris, as the German authorities, and I think particularly the Economics and Armament Office, had passed on the evaluation by Mr. Simonis

to the ALSTHOM firm in order to use it as the basis for the indemnification proceeding.

Q. What was ALSTHOM's reaction to that, do you know what they said in those negotiations?

A. ALSTHOM addressed a lengthy letter to the deputy of the Military Commander in which they named their demands.

Q. Do you know how high those demands were?

A. I think it was 670,000 marks in all.

Q. There is a considerable, a very noticeable difference, between this demand by ALSTHOM and the evaluation of Simonis which you mentioned. How do you explain that?

A. The evaluation by Simonis had been based on the principles customary in Germany for the evaluation of used machines. There existed a certain directive laying down the exact rules for the making of such evaluations. On the other hand, the French based their evaluation on a replacement value which, of course, was considerably higher than the original purchase price of the machine. They then added the costs for work on foundations, assembly, and various other work, connected with the erection of such a machine. They also claimed certain losses in interest, I think it was for 3 years, and from this basic price, which they calculated in that way, they deducted depreciation rates which were lower than those usual in Germany. The depreciation rates were fixed on the basis of depreciation in buildings, that is 2 percent per year, and that is how the difference is explained.

Q. What was the usual depreciation rate for a used machine?

A. That mainly depends on the kind of machine. In our firm we generally fixed a depreciation rate of 10 percent for nearly all kinds of machines. The experts were of the opinion that a depreciation rate of 7½ percent would be suitable for that kind of machine. The evaluation principles adopted by the Allies for estimating German machines provide for a rate of 6.52 percent.

Q. Would you say that the evaluation of Simonis, which was based on the principles which you have just outlined, would still be considered an acceptable one under present-day conditions?

A. Yes. The evaluation principles were based on purely factual considerations.

Q. Was the evaluation made at your instigation?

A. No, Mr. Simonis visited us very surprisingly.

Q. Did you continue your direct negotiations with ALSTHOM?

A. I think it was in March 1942 that we received the permission of the navy to negotiate with the French on the basis of the Simonis evaluation. After that we made them a purchase offer to the amount fixed by the evaluation.

Q. What was ALSTHOM's reaction?

A. ALSTHOM told us via Mr. Arnold that they would not consider a price of 108,000 marks. They had worked out a higher price and they attached a copy of the previously mentioned letter they had written to the agent of the Military Commander, in which they had given the reasons for their demand of 670,000 marks.

Q. Now what happened then? Did you discuss the matter with the armament agencies?

A. My original intention was to discuss the matter once more with the representatives of ALSTHOM in order to see whether we could not find a mutual basis of agreement. For that purpose I had written to Paris saying that I was coming, and when I arrived there, I first of all went to the German authorities in order to find out what the latest stages of the negotiations were. On that occasion I found out that the German authorities intended to carry through the requisition proceedings themselves and fix the depreciation rates in the requisition contract, and therefore I dropped my visit to the ALSTHOM firm.

Q. I would like to discuss some of the details with you and therefore I am showing you Prosecution Exhibit 717, Document NIK–13449.* This document says—"Upon receipt of your letter of 7th instant, investigations were made to ascertain how far the High Command of the Navy will be in a position to assist you in the negotiations with the firm ALSTHOM. No legal basis is given for intervention, e.g., the High Command of the Navy is not in a position to order the firm ALSTHOM to accept the price offered by the Krupp firm. Thus, the matter can be settled only by way of negotiations."

Now, will you please tell me why this letter was written?

A. As I can see from the subject matter and from the reference number at the top, this is a reply to a letter from Mr. Engelking in Berlin, dated 7 May. I have never seen this letter before. According to the date, this correspondence took place between February and July, at which time those simultaneous negotiations were going on, as I already explained. I don't know in how far Mr. Engelking had asked the navy for support, but since the navy had given us authority to negotiate and since they wanted to be kept informed I should imagine that Mr. Engelking at one time reported what the state of the proceedings was.

MR. MANDELLAUB: Your Honors, I think the document speaks for itself and no speculation is necessary.

JUDGE DALY, Presiding: Well of course as far as the witness' speculations are concerned, they are of no value, but we probably can save time by not paying too much attention to it. Of course

* Reproduced earlier in this section.

the Court isn't impressed by this witness' testimony as to why somebody did something. This couldn't be of any value. Will you give me the exhibit number of that letter to which you are referring now?

DR. WENILAND: The document is NIK–13449, Prosecution Exhibit 717.

Witness, I have one more question in this connection. Did you, during the negotiations for the purchase of the machine, have any misgivings as to the legality of the purchase under international law? As a preliminary question I would like to ask you whether you have any legal training?

WITNESS THIESS: No, I have not. In the beginning, of course, we could not have any doubts as to the legality under international law because the firm ALSTHOM itself had asked us to comment on the matter of the purchase. They had asked us to say whether we were interested in the purchase of that machine. Later on the question was mentioned. That was in the summer of 1943.

Q. Why was it that just at that time you entertained such notions?

A. At that time one of the people concerned in Paris told me that lately the French had objected to the requisitions carried out by the Wehrmacht and that they had raised this question of the legality under international law.

Q. What did you do thereupon?

A. I discussed the matter with the attorney Schuermann, whom I knew personally, and asked him what he thought of such objections.

Q. Did you go and see him or did you call him over the telephone?

A. First of all I called him over the telephone but I couldn't get a definite answer, so I saw him at a later date and discussed the matter personally.

Q. What information did he give you?

A. Schuermann explained to me that there were two different kinds of requisitions; those for the purpose of utilization and those for the purpose of acquiring ownership. He was of the opinion that if the navy had requisitioned these machines in order to utilize them, then we would not be able to purchase them on a legal basis. However, if the requisitions had been made in order to transfer ownership, then he was of the opinion that it would be possible for us to acquire them legally.

Q. From the navy?

A. Yes.

Q. Now, this seems to be in opposition to Document NIK–13448,

Prosecution Exhibit 716.[1] This is a letter from the Armament Inspectorate Dijon, dated 16 April 1941. We have just been discussing the period of 1943. Now, this letter dated 1941 shows certain handwritten notes at the bottom; for instance, it says there—

> "Confiscation for use possible, according to Hague Convention for Land Warfare. Confiscation for transfer of ownership probably not possible."

Perhaps, you will turn to that document which is the first one in the book in front of you.

A. Yes, I have it.

Q. Please comment on that.

A. I do remember those handwritten notes.

Q. Did you make them yourself?

A. Yes. Well, first of all, with regard to the document itself, I would like to say that I can see from the kind of paper that I had this regulation copied out when I happened to be in Paris; that would have been later than 1941. I took this copy of the regulation to Dr. Schuermann when I wanted to inquire about the legal position. At that time we agreed that, first of all, we should get possession of the requisition order issued by the Military Commander for the Montbelleux district, which is mentioned in this document. After obtaining that, Schuermann was to give me a final opinion and he wanted also in the meantime to look up the laws again and refresh his memory on the legal position.

Q. So the handwritten notes were made in 1943?

A. Yes.

Q. What was the outcome of your efforts to obtain the requisition order?

A. We tried on several occasions to get hold of the requisition order but Paris told us that when the district command and the Armament Inspectorate were dissolved, it was likely that the files had been destroyed and that a copy of the requisition order was not available. Usually, however, the requisitions in France had been made for the purpose of transfer of ownership.

Q. I would also like to show you another file note which you wrote. It is Document NIK–13450, Prosecution Exhibit 718.[2] It is dated 21 July 1943. It says there—"According to Mr. Sieber * * *." He seems to have been an official of the armament office in Paris. Isn't that correct?

A. No, he was at the Intendantur.

Q. Well, I see. It says here—"According to Mr. Sieber,

[1] Reproduced earlier in this section.

[2] Ibid.

ALSTHOM has now also rejected the amended estimate. On the part of the Intendant for France, he says there existed the intention to refer the whole matter back once more to the OKM for decision. I have asked Mr. Sieber once more to make representations at the Intendantur, asking them to interpose their authority and to settle the matter, as the sending of files back and forth would not lead to anything."

Please tell me what the basis of this file note was; that is, the background of it?

A. I would like to say, first of all, that that was a little note for my own use. It wasn't really a file note, because it was never circulated among other members of the office. We as a firm were interested in getting definite information from the authorities as to what price we should pay. We were continuously pressed by the price controllers to make a definite offer and now we were trying to press authorities in Paris that they should make a decision. At that time I think the Intendantur had quoted a slightly higher valuation figure to ALSTHOM as a basis for compensation, which had been refused. Now, as I was told, the Intendantur intended to refer the whole matter back to Berlin, which would have meant a delay of many weeks. I think it can easily be understood that we were not very pleased about this, and therefore, I told the official of the Intendantur that he should at last do something about the matter, just sending the files back and forth wouldn't get anybody anywhere and it would be much better if he would cope with the matter on the spot.

I would like to add something else. This little note is better explained by another note which was written, as far as I remember, on 6 August, in which it is said that the same official had informed me from Paris that the Intendantur had now almost come to an agreement with ALSTHOM and was only trying to settle some minor difficulties.

Q. I have a copy of a file note here which was dated 6 August 1943. You are the author of this file note. Can I show you that and would you please identify it and say whether it was written by you. Is that the second file note which you just mentioned?

A. Yes, that is the one.

JUDGE WILKINS: Does that have an exhibit number?

DR. WENILAND: No, your Honor, it is not introduced as evidence yet. I would like to offer it for identification for the time being. The number would be—if the Secretary General would help me —Defense Exhibit 495 for identification.*

Q. How do you identify it? Does it have any number on it?

A. It is Loeser Document 126.

* Loeser Document 126, Defense Exhibit 495, reproduced above in this section.

Q. What book, Doctor?

DR. WENDLAND: It will be added to the Loeser document book 2.

Now let's discuss once more the file note of 21 July 1943, which is Prosecution Exhibit 718. Under "1" it says something about the information attorney Schuermann gave you on the position under international law. Did you make this note after the telephone conversation you mentioned or later? Was the information amplified or corrected in any way after that?

WITNESS THEISS: I think, according to the wording of this information, it must have been a preliminary one, because the final information was the one which I explained earlier, i.e., that there were two kinds of requisitions—one for utilization and one for transfer of ownership.

Q. I would like also to show you Document NIK–13451, Prosecution Exhibit 719.* Will you please look at that document and comment on it? That is a letter from Krupp Stahlbau dated 18 July 1944, to the Fried. Krupp Liaison Office, Stahlbau, for the attention of Mr. Haller, Paris. It is also pointed out in this letter that the whole matter is still pending. Perhaps you can give your comments on this document, particularly on the sentence—"The Intendant of the Military Commander has certain scruples about forcing the French to accept a compensation which would, under German conditions, be acceptable. Step by step he has gradually advanced the compensation offer to RM 190,000.00." Will you please tell us the connection which would explain this letter?

A. In the fall of 1943, we ourselves, as the saying goes, "had gotten cold feet," and it was our intention to withdraw gracefully from the whole matter.

Q. Why was it that you got "cold feet", as you call it?

A. In spite of the information given by Mr. Schuermann, the whole situation was not quite clear to us and I myself, at any rate, did not think that even if an indemnification were paid, this would eventually lead to a proper purchase. I thought that we would have difficulties after the end of the war. Of course, we didn't intend in any way to indicate that to the German authorities because, according to the attitude prevailing then, that could easily have been interpreted as defeatism, and the consequences were known. The German authorities, on the other hand, had continued negotiations, but the French as well as the German authorities were pursuing delaying tactics and we suddenly received a letter from the Intendantur of the German Military Commander—I think it was dated May 1944—in which he informed us very briefly what the stage of proceedings was at that time. He

* Reproduced earlier in this section.

said that they still hadn't been able to come to an agreement between the Intendantur and the French firm. We answered that letter very briefly on 18 July 1944, and in it we informed the Intendantur in so many words that we were sorry that they still had not achieved anything with the French. We, of course, were very interested to know what we would have to pay to the authorities for the machine, because we did not like to continue this uncertain position. But we no longer referred to our intention to purchase the machine and in order to cover up this hidden refusal I sent this letter to our liaison officer in Paris and asked him to hand it to the Intendant; but he should wait until he had been to Rheinhausen before he took any further steps. In this way I made certain that the letter would be delivered but that nothing else would happen. The rather strong expressions used in that letter were chosen because we wanted to avoid giving the impression that we had defeatist leanings and did not want to pursue the matter at that moment.

Q. Will you also tell us in what stages the war was at that time—that is, July 1944, was Paris still in German hands?

A. Yes, I think it was just about—but it was already threatened or at least had to be considered in great danger.

Q. Now, if I understand you correctly, that uncertain situation you have just described—that refers to the legal position of the whole matter and this expression that you used, that you had gotten "cold feet," also refers to the legal position?

A. Well, according to the expert opinion of Mr. Schuermann, it wasn't so much in the legal field that we had misgivings as from a political point of view. We felt we would lose the machine in any case, even if, according to German provisions, our legal title was justified.

Q. But you were still continuing with the navy program, weren't you?

A. Yes, obviously we could not stop that program at any time convenient to us. We had to continue with it as long as the navy wanted us to.

Q. Well, what happened to the machine eventually?

A. The intention was to transfer the machine—I think in February 1945—to another firm in Berlin. However, in the end we left it at Rheinhausen.

Q. Whose intention was it to transfer the machine?

A. I think it was a suggestion of the navy or, at least, the main committee which was in charge of the navy program.

Q. So at any rate, the machine was never shipped to any other place; it was left in Rheinhausen—and what happened to it there?

A. As early as 8 days after the occupation of Rheinhausen, a

French liaison officer came to inquire about the fate of the machine; later on it was dismantled and returned to Belfort. I think that was at the beginning of 1946.

Q. Were any remarks made with regard to the condition of the machine?

A. The commission which was in charge of the dismantling appreciated the fact that the machine was in good working order—well taken care of.

DR. WENDLAND: I have no further questions to this witness.

* * * * * * *

CROSS-EXAMINATION

* * * * * * *

MR. MANDELLAUB: Witness, in direct examination you mentioned the legal position with regard to which the Krupp attorney had given you some information. You have also stated that you learned that in the usual way machines were requisitioned in France for the purpose of transfer of legal title; did I understand you correctly?

WITNESS THIESS: Yes.

Q. You knew that Krupp was one of those firms which had received such machines from France, for instance, the one from Belfort; is that correct?

A. Yes, well after all, the OKM had made the machine available to us for the Jaeger program.[1]

Q. So you knew that there was some legal question as to whether this was in keeping with international law. Now, did you thereupon discuss the possible consequences of such violation of law with any of the gentlemen in Essen?

A. I have already said that the legal question was first of all broached in 1943. I discussed it only with Mr. Schuermann; I only discussed it with Mr. Schuermann because I was interested to know whether we had the possibility of obtaining justified legal title from the navy command. I did not discuss it generally with any members of the directorate. I may have mentioned it once to Mr. Hardach,[2] but that would have been in private and not officially because he was not a member of the directorate at the time.

Q. Do you remember having discussed it in private with Mr. Hardach?

A. Yes.

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[1] A German navy program for the mass production of submarines.

[2] Mr. Hardach was chief of the Kriegsschaedenabteilung [War Damages Section], a unit in Krupp's Financial Department.

Q. And beyond that you did not consider the question important enough to inform the leading Krupp executives of their possible violation of international law?

A. After I had been given the information that the requisitioning was usually undertaken for the purpose of transfer of legal title, and since in that case to Mr. Schuermann's opinion it was possible for us to obtain legal title, I considered the matter sufficiently clear and did not think it needed any further discussion.

Q. Your memorandum, or note, about this information is dated 21 July 1943; is that correct?

A. As I said before—

Q. Witness, you can answer this question yes or no. Is this note dated 21 July?

DR. BEHLING: Your Honor, the witness has already said in direct examination that the file note should only be considered in its proper connection, so I would ask to give him an opportunity to make his statement.

JUDGE DALY, presiding: The witness can answer the question yes or no; that is a very simple question.

MR. MANDELLAUB: Witness, please answer the question with regard to the date.

WITNESS THIESS: The date is correct, but that is not the only note I made on it.

Q. Witness, I would like to give you a sharply defined question and I want to have your answer to it. The file note which you have written yourself, and which is in front of you, is it dated 21 July 1943?

DR. BEHLING: I can't see the meaning of that question because the document speaks for itself; it carries the date.

MR. MANDELLAUB: Your Honor—

JUDGE DALY, presiding: That is all right; the objection is overruled. Go ahead.

MR. MANDELLAUB: Witness, will you please answer?

WITNESS THIESS: This note bears the date 21 July.

Q. Witness, I now show you Document NIK–13451, Prosecution Exhibit 719. Please tell me whether that is your signature.

A. Yes.

Q. Will you please confirm that you wrote that letter?

A. Yes, that letter was written by me in connection * * *.

Q. That is sufficient. Witness, to whom did you address the letter? Is it addressed to Mr. von Haller?

A. Yes.

Q. Will you tell me who Mr. von Haller is?

A. Mr. von Haller was the chief of our Paris office.

Q. What office?

A. The technical office which was in charge of designing work.

Q. Who was the superior of Mr. von Haller?

A. Mr. Herrmann.

Q. Did you know that Mr. von Haller had certain orders from Krupp-Stahlbau Rheinhausen with regard to the carrying out of certain projects, purchasing of machines, procurement of labor, etc.?

A. No, I know nothing of that.

Q. Witness, I am now going to discuss your activities after 1 April 1940. Did you remain in the firm after Loeser had left?

A. Yes.

Q. Are you still working there?

A. Yes.

Q. Did you as late as 1944 have any negotiations with regard to the machine from Belfort?

A. We may have answered letters which we received, asked questions as to dates and terms, but we did not carry out any serious negotiations.

* * * * * * *

Q. Witness, to whom was Mr. Herrmann subordinated in technical matters?

A. In technical matters he was subordinated to Mr. Goerens.

Q. Would you speak a little louder?

A. Mr. Herrmann was subordinated to Mr. Goerens in technical matters.

Q. Were the technical questions of the Rheinhausen Stahlbau discussed between Goerens and Herrmann?

A. I assume that important questions were discussed between those two.

Q. Did Mr. Herrmann also talk with Mr. Houdremont about technical questions of the Stahlbau Rheinhausen?

A. I assume so. However, I am not sure.

Q. Witness, you were the commercial manager of Stahlbau Rheinhausen, weren't you?

A. Yes.

Q. With whom did you discuss the commercial problems of Stahlbau Rheinhausen?

A. With those members of the directorate who were in charge of commercial matters.

Q. Did you discuss commercial questions of the Stahlbau Rheinhausen with Mr. Loeser?

A. I discussed such problems with him, but not regularly?

Q. Did you see Mr. Loeser frequently during your activity at the Stahlbau Rheinhausen?

A. Yes.

Q. Did you also discuss the commercial problems of the Stahlbau Rheinhausen?

A. That was the case.

Q. Did you talk with Mr. Loeser about the commercial aspects of the triple-roller bending machine?

A. We considered and discussed the triple-roller bending machine as a means of production procured for carrying out a government order. As a rule, such questions were not submitted to Essen because payment in such matter was effected by sending the invoice to the ordering party.

Q. You didn't quite answer my question. Did you discuss the commercial aspect of the triple-roller bending machine with Mr. Loeser?

A. It is possible that I told him occasionally that we were negotiating for this machine. I do not think I informed him about the details.

Q. You don't think you informed him about the details; then you don't remember exactly whether you discussed details; you only remember that you talked in general terms?

A. Yes, that took place about 5 years ago.

Q. But you discussed it in general terms?

A. Yes, I told him that we had had negotiations.

* * * * * * *

VIII. SLAVE LABOR—COUNT THREE

A. Introduction

Count three of the indictment is entitled "Deportation, Exploitation, and Abuse of Slave Labor." The specifications concerning this count appear in paragraphs 46 through 63 of the indictment. (Sec. I). All of the defendants were charged under this count with participation "in atrocities and offenses against persons, including: murder, extermination, enslavement, deportation, torture, abuse, and other inhumane acts committed against civilian populations of countries and territories under belligerent occupation of, or otherwise controlled by, the Third Reich; enslavement and deportation of foreign and German nationals, including concentration camp inmates; employment of prisoners of war in war operations, work having a direct relation to war operations, * * *." Paragraph 48 of the indictment alleges that "The acts, conduct, plans, and enterprises charged in this count were carried out as a part of the slave-labor plan and program of the Third Reich. Millions of persons, including women and children, were subjected to forced labor under cruel and inhumane conditions which resulted in widespread suffering and many deaths." All of the defendants except the defendant Pfirsch, were convicted under this count.

The general theories upon which the prosecution and the defense presented evidence concerning the slave-labor charges appear in the pertinent parts of the opening statements. (Sec. IV). The present section contains selections from the evidence of both the prosecution and the defense. For the convenience of the reader, the contemporaneous documents and the testimony herein have been arranged under six sections, each headed by a general descriptive title. Of course it was unavoidable under any arrangement of the materials that some of the evidence in one section overlap with materials in other sections. In many cases cross references to related matters in other sections have been made by footnotes.

The first part below, "B. Procurement and Utilization of Foreign Laborers," contains evidence dealing with the number of foreign laborers employed, including prisoners of war and concentration camp inmates; the manner of the procurement of foreign laborers; the relations of Krupp with a number of official agencies concerned with production demands to labor allocations problems; and other matters related to these main points.

The following section, "C. Treatment of Foreign Laborers;

Working and Living Conditions; Discipline; and Krupp's Relations With the Gestapo," deals broadly with the treatment of foreign laborers, whereas the next three sections deal in greater detail with special aspects of the employment and treatment of foreign laborers which received particular attention in both the trial of the case and in the judgment of the Tribunal—special training or penal camps for foreign workers employed by Krupp (sec. D); the children's camp for the infants of eastern workers at Voerde (sec. E); and the procurement and treatment of female concentration-camp inmates at the Krupp plants in Essen (sec. F). The section concludes with materials dealing in greater detail with the employment and treatment of prisoners of war (sec. G).

B. Procurement and Utilization of Foreign Laborers

1. CONTEMPORANEOUS DOCUMENTS

PARTIAL TRANSLATION OF DOCUMENT NIK-10218
PROSECUTION EXHIBIT 870

REPORT FROM KRUPP'S STATISTICAL OFFICE TO DEFENDANTS KRUPP, HOUDREMONT, LEHMANN, MUELLER, AND OTHERS, 27 NOVEMBER 1944, TABULATING COMPARATIVE FIGURES INDICATING EMPLOYMENT OF OVER 70,000 FOREIGN WORKERS AND PRISONERS OF WAR ON 30 SEPTEMBER 1944

[Stamp]
Secretariat Houdremont
No. 7347
Rec'd 28 November [1944]

Distribution—
Messrs A. Krupp v. Bohlen, Goerens, Janssen,
F. Mueller,
Houdremont,
E. Mueller,
Ihn, Haerlin, Lehmann,
Schroeder, Hardach,
Girod, Kraus, and
Wolf (workers relations office)—exclusive of affiliated plants,
Main administration office—exclusive of affiliated plants
Main bookkeeping department—exclusive of affiliated plants
Cooperative Stores—exclusive of affiliated plants
Mr. von Verschuer—exclusive of affiliated plants
Mr. Mette—exclusive of affiliated plants

Statistical Office, 27 November 1944

*Number of workers and employees on 30 September 1944**

[Stamp] Secret!

The number of persons employed by Fried. Krupp and its subsidiary companies on 30 September 1944 was 26,354 employees (26,396 in the previous month) and 122,863 (118,071) workers, a total of 149,217 (144,467); Germans among the labor force 116,750 (114,995). From that number drafted into the army and labor service: 5,746 employees and 25,722 workers, a total of 31,468—21.1 percent (20.5 percent in the previous month). In addition the number of those killed was 4,171 since the outbreak of war.

As compared to the previous month a further decrease of 42 employees and an increase of 4,792 workers is to be noted. The increase in workers is chiefly due to the increased employment of female workers.

The following table shows the changes in the various plants:

	Employees		*Workers*	
	New arrivals	*Terminations*	*New arrivals*	*Terminations*
Gusstahlfabrik	171	255	4,154	306
Evacuated plants	149	34	629	416
Widia	23	17	210	205
Fried.-Alfred-Huette	28	42	268	94
Krupp-Stahlbau	12	43	326	209
Mines Essen	2	20	224	37
Koenig Wilhelm	—	4	80	3
Hannover Hannibal	—	—	300	31
Cooperative Stores	3	18	12	28
Grusonwerk	20	16	135	279
Germaniawerft	24	28	292	219
Sieg-Lahn-Mining	3	8	223	199
Others	9	1	77	112
	444	486	6,930	2,138

The ratio of workers to employees in the Fried. Krupp and subsidiary firms was 4.9 [to 1] as compared to 4.7 to 1 in August.

In the various works the figures are as follows:

* The Germans draw a clear line between production and maintenance workers, using "Arbeiter," and office or white-collar workers, using the word "Angestellte." During the Nuernberg trials "employees" was used as the usual translation for "Angestellte" and "workers" was used as the usual translation for "Arbeiter."

	30 September	31 August
Gusstahlfabrik	3.9	3.7
Widia	8.4	8.4
Friedrich-Alfred-Huette	5.9	5.8
Krupp-Stahlbau	3.8	3.5
Mines Essen	12.9	11.1
Koenig Wilhelm	17.6	16.6
Mines Hannover Hannibal	14.9	14.3
Clay pits and fire-proof clay works Witterschlick	10.2	13.5
Silesian Nickel works	7.9	8.1
Firing range Meppen	7.1	7.4
Cooperative Stores, Essen	0.7	0.7
Fried. Krupp	4.7 x	4.5 x
Grusonwerk	5.1	5.1
Germaniawerft	4.8	4.7
Sieg-Lahn-Mining	14.2	13.9
	4.9 x	4.7 x

x Calculated without Cooperative Stores, Essen.

The number of employee-apprentices amounted to 1231 (incl. 283 apprentices of the Cooperative Stores) as compared to 1,203 in August, and that of the worker apprentices to 2,536 (2,593).

In addition 454 female office and draftsmen trainees as well as 390 shop trainees and young miners [Bergjungleute] were employed.

The number of female employees was 6,450 as compared to 6,572 in August, the number of female workers (including charwomen) 16,112 (13,273) and the number of female workers on fixed pay 394 (406), a total of 22,956 (20,251)–15.4 percent (14 percent) of the total employees. The number of foreigners employed (without PW's) amounts to 25,709 as compared to 20,943, in August, that of the PW's to 6,758 (8,529).*

As compared to the position on 30 September 1943 the following changes have taken place in the complement of the Fried. Krupp and its subsidiary companies:

* The relative figures for the "Affiliated plants and trade associations" are given separately later in this document.

	30 September 44	30 September 43	Increase or decrease	Percent
Gusstahlfabrik (incl. leased plants and those handed over on loan)	78,630	81,349	—2,719	— 3.3
Serving in Armed Forces	18,864	17,088	+1,776	+10.4
Working employees	59,766	64,261	—4,495	— 7.0
Fried. Krupp	120,051	116,846	+3,205	+ 2.7
Serving in Armed Forces	26,145	22,496	+3,649	+16.2
Working employees	93,906	94,350	— 444	— 0.5
Fried. Krupp and Affiliated firms	149,217	146,322	+2,895	+ 2.0
Serving in Armed Forces	31,468	26,184	+5,284	+20.2
Working employees	117,749	120,138	—2,389	— 2.0

[Stamp] Secret!

Affiliated plants and commercial enterprises

The total number of employees of the affiliated works on 30 September 1944 amounted to 16,819 employees and 106,412 workers, a total of 123,231. Of that figure 2,270 employees and 14,538 workers, total 16,808—13.6 percent (in the previous month 15,959—13.4 percent) were drafted for service with the army and Reich Labor Service.

As compared to 31 August the number of employees decreased by 12 while that of the workers increased by 4,187.

The employees changed chiefly with—

	Employees	Workers
Deschimag, Weser Works	—	+1,452
"Weser" aircraft manufacturers	—79	+ 188
Westfaelische Drahtindustrie	— 7	+ 112
Bernd. Metallwarenfabrik	— 1	+ 173
Berthawerk	+76	+ 409
Crankshaft works	+23	+ 421
Gew. Emscher—Lippe	— 1	+ 396
Gew. Constantin der Grosse	+ 1	+ 279
Bergbau A.G. Lothringen	— 8	+ 848

The commercial enterprises employed 1,892 employees (in the previous month 1,903) and 3,042 (3,066) workers, a total of 4,934 (4,969). Of that number 558 employees and 582 workers,

total 1,140—23.1 percent (1,119—22.5 percent) had to enlist in the army and labor service.

The number of foreigners employed (without PW's) with the affiliated works and the trading companies was 29,281 as compared to 24,805 in August, that of PW's 12,144 (13,598).

The following table shows the changes in the complement of the Krupp concern as against the position on 30 September 1943:

	30 September 44	*30 September 43*	*Increase or decrease*	*Percent*
Affiliated works	123,231	82,949	+40,282	+ 48.6
Serving in armed forces	16,808	7,828	+ 8,980	+114.7
Working complement	106,423	75,121	+31,302	+ 41.7
Commercial enterprises	4,934	6,033	— 1,099	— 18.2
Serving in armed forces	1,140	982	+ 158	+ 16.1
Working complement	3,794	5,051	— 1,257	— 24.9
Krupp concern	277,382	232,836	+44,546	+ 19.1
Serving in armed forces	49,416	34,994	+14,422	+ 41.2
Working complement	227,966	197,842	+30,124	+ 15.2

* * * * * * *

TRANSLATION OF DOCUMENT NIK–10219
PROSECUTION EXHIBIT 869

EXTRACT FROM REPORT OF KRUPP'S STATISTICS OFFICE ADDRESSED TO DEFENDANTS KRUPP, HOUDREMONT, IHN, JANSSEN, MUELLER AND OTHERS, 1 SEPTEMBER 1944, SHOWING PRISONERS OF WAR EMPLOYED IN KRUPP PLANTS (AFFILIATES INCLUDED IN SEPARATE TABLE)

Distribution—
Mr. A. Krupp v. Bohlen, Goerens, Janssen,
F. Mueller,
Houdremont,
E. Mueller,

Ihn, Haerlin, Lehmann,
Schroeder, Hardach,
Girod, Kraus, and
Wolf, (employee relations office)—exclusive of affiliated plants
Main Administration Office—exclusive of affiliated plants
Main Bookkeeping Department—exclusive of affiliated plants
Cooperative Store [Konsumanstalt]—exclusive of affiliated plants
Mr. v. Verschuer—exclusive of affiliated plants
Mr. Mette—exclusive of affiliated plants

Statistics Office, 1 September 1944
[Illegible signature]

* * * * * * *

	Prisoners of war
Gusstahlfabrik	3,319
Evacuated plants	273
	3,592
Branch Administration Offices	
Widia Essen	71
Bremen	179
Wuppertal	15
Langenbielau	265
Friedrich Alfred Huette [Foundry]	519
Krupp-Stahlbau	400
Bergwerke Essen [Mines]	1,023
Koenig Wilhelm	210
Hannover-Hannibal	914
Meppen Firing Range	294
Witterschlick Clay pit and Fire-proof Clay plant	33
Schlesische Nickelwerke [Silesia Nickel Works]	94
Konsumanstalt Essen [Cooperative Store]	72
	4,089
Grusonwerk	920
Germaniawerft	142
Sieg-Lahn Mines:	
Betzdorf Region	210
Weilburg Region	310
Goslar Region	—
Grusonwerk Cooperative Store	—
	9,263

* * * * * * *

903432—51——44

The number of foreigners employed (without prisoners of war) in the affiliated plants and companies amounted to 24,920 as compared to 24,858 in June; the number of prisoners of war 13,109 (12,327).

* * * * * * *

	Prisoners of war
Deutsche Schiffs- und Maschinenbau A.G.:	
Seebeck Works	150
Weser Works	46
Weser Flugzeugbau-Gesellschaft	1,189
Brune and Kappesser	1
Capito and Klein	49
Westphalian Wire Industry	72
North German Foundry (Norddeutsche Huette)	123
Berndorfer Metallwarenfabrik	510
Kurbelwellenwerk Glinde (Crankshaft Plant)	488
Berthawerk	3,648
ELMAG, Mulhouse	606
Krupp Treibstoffwerk (Fuel Plant)	55
Gew. Emscher Lippe	1,877
Gew. ver. Constantin d. Grosse	2,429
Bergbau A.G. Lothringen	1,436
Grube Friederike (Mine)	50
Grube Hansa (Mine)	1
Grube Braunesumpf (Mine)	48
Tonbergbaugesellschaft Kruft (Clay mine Co.)	11
Handelsgesellschaft (Trading Corp.)	340
	13,109

* * * * * * *

TRANSLATION OF DOCUMENT NIK–4022
PROSECUTION EXHIBIT 1155

UNDATED REPORT GIVING NUMBERS AND TOTAL FIGURES OF FOREIGN LABORERS AND PRISONERS OF WAR EMPLOYED IN THE KRUPP CONCERN FROM APRIL 1943 TO APRIL 1945

[See fold-in document]

Volkswirtschaftliche Abteilung
[Population Economics Section]

UNDATED REPORT GIVING NUMBERS AND TOTAL FIGURES OF FOREIGN LABORERS AND PRISONERS OF WAR EMPLOYED IN THE KRUPP CONCERN FROM APRIL 1943 TO APRIL 1945

KRUPP CONCERN

Number of Prisoners of War and Civilian Foreigners

Concern [Total works, affiliated plants, and commercial enterprises.]				Of the concern totals, employed in Cast Steel Works (including Widia, Essen, Turning Shop Bremen and Wuppertal)																										
				Prisoners of War				Civilian Foreigners																						
								Eastern workers		French		Italians		Dutch		Poles		Belgians		Slovaks	Subjects from Protectorate[1]		Ukrainians		Slovenes	Bulgarians	Others		Total		Grand total
	Prisoners of war	Foreign Civilians	Total	French-men	Russians	Italian military internees	Total	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	(Male)	(Female)	Male	Female	Male	Male	Male	Female	Male	Female	
End of —																															
April *1943*	9,135	30,608	39,743	.....	.....	.....	2,723	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
May	8,998	34,270	43,268	.....	.....	.....	2,686	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
June	8,920	34,845	43,765	.....	.....	.....	2,641	2,681	1,042	4,861	51	978	.....	1,664	5	638	2	226	.....	6	380	.....	204	4	122	40	90	4	11,890	1,106	12,996
July	8,719	34,511	43,230	.....	.....	.....	2,594	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
August	10,077	35,948	46,025	.....	.....	.....	2,593	2,585	928	4,510	49	565	.....	1,488	7	565	1	228	4	3	112	.....	221	34	123	65	65	4	10,530	1,027	11,557
September	11,224	39,450	50,674	.....	.....	.....	1,930	2,604	1,326	4,322	49	456	.....	1,395	7	541	2	212	3	3	94	.....	210	32	109	47	70	14	10,063	1,433	11,496
October	14,489	39,028	53,517	1,367	861	.....	2,228	2,523	1,348	.....	.....	.....	.....	Men:	.....	5,818	.....	.....	.....	.....	Women:	66	.....	.....	Total:	.....	.....	.....	8,351	1,414	9,765
November	17,189	37,318	54,507	910	861	**1,670	3,441	2,989	1,301	.....	.....	.....	.....	.....	.....	5,228	.....	.....	.....	.....	.....	60	.....	.....	.....	.....	.....	.....	8,217	1,361	9,578
December	17,900	37,179	55,079	1,130	877	1,670	3,677	2,533	1,388	.....	.....	.....	.....	.....	.....	4,789	.....	.....	.....	.....	.....	42	.....	.....	.....	.....	.....	.....	7,322	1,430	8,752
January *1944*	19,090	36,687	55,777	1,100	915	1,670	3,685	2,490	1,335	.....	.....	.....	.....	.....	.....	3,881	.....	.....	.....	.....	.....	274	.....	.....	.....	.....	.....	.....	6,371	1,609	7,980
February	19,301	36,674	55,975	905	885	1,670	3,460	2,456	1,377	.....	.....	.....	.....	.....	.....	3,627	.....	.....	.....	.....	.....	284	.....	.....	.....	.....	.....	.....	6,083	1,661	7,744
March	17,179	34,508	51,687	1,053	1,000	1,670	3,723	2,574	1,383	.....	.....	.....	.....	.....	.....	3,661	.....	.....	.....	.....	.....	291	.....	.....	.....	.....	.....	.....	6,235	1,674	7,909
April	20,593	37,057	57,650	1,064	984	1,670	3,718	2,680	1,396	1,376	56	320	2	432	2	661	25	107	2	2	.....	.....	273	28	103	9	77	2	6,040	1,513	7,553
May	20,317	38,133	58,450	1,045	992	1,670	3,707	2,474	1,305	.....	.....	.....	.....	.....	.....	2,904	.....	.....	.....	.....	.....	47	.....	.....	.....	.....	.....	.....	5,378	1,352	6,730
June	21,852	44,034	65,886	1,023	932	1,652	3,607	2,511	1,442	.....	.....	.....	.....	.....	.....	2,975	.....	.....	.....	.....	.....	63	.....	.....	.....	.....	.....	.....	5,486	1,505	6,991
July	22,372	44,015	66,387	952	973	1,659	3,584	2,438	1,557	.....	.....	.....	.....	.....	.....	2,931	.....	.....	.....	.....	.....	53	.....	.....	.....	.....	.....	.....	5,369	1,610	6,979
August	22,721	45,748	68,469	747	1,002	1,698	3,447	2,391	1,557	.....	.....	.....	.....	.....	.....	3,026	.....	.....	.....	.....	.....	400	.....	.....	.....	.....	.....	.....	5,417	1,957	7,374
September	18,902	54,990	73,892	739	1,285	.....	2,024	2,641	1,582	1,062	64	2,631	6	387	6	1,047	55	337	.....	4	.....	.....	231	30	72	6	64	*366	8,482	2,109	10,673
October	18,393	54,405	72,798	720	1,202	.....	1,922	2,560	1,550	.....	.....	.....	.....	.....	.....	5,730	.....	.....	.....	.....	.....	570	.....	.....	.....	.....	.....	.....	8,290	2,120	10,410
November	17,975	54,285	72,260	724	1,212	.....	1,936	2,500	1,502	.....	.....	.....	.....	.....	.....	5,652	.....	.....	.....	.....	.....	553	.....	.....	.....	.....	.....	.....	8,152	2,055	10,207
December	18,174	55,200	73,374	625	1,136	.....	1,761	2,421	1,477	.....	.....	.....	.....	.....	.....	5,511	.....	.....	.....	.....	.....	539	.....	.....	.....	.....	.....	.....	7,932	2,016	9,948
January *1945*	*13,118	*51,240	64,358	620	1,116	.....	1,736	2,308	1,414	1,030	62	1,581	5	353	5	1,393	4	442	.....	3	.....	.....	219	34	65	4	66	462	7,464	1,982	9,446
February	.....	.....	.....	591	1,097	.....	1,688	2,175	1,279	.....	.....	.....	.....	.....	.....	4,686	.....	.....	.....	.....	.....	606	.....	.....	.....	.....	.....	.....	6,861	1,885	8,746
April	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	[2] 45

[Footnotes in original document.]

* Jewish women.

[1] Excluding works situated in the East.

** Estimated.

[1] Bohemia-Moravia, part of Czechoslovakia.

[2] Figure "45" appears in original document. See mimeographed transcript, 12 February 1945, p. 3830.

TRANSLATION OF DOCUMENT NIK-15520
PROSECUTION EXHIBIT 1563

MEMORANDUM FROM THE DEFENDANT IHN TO KRUPP'S HOUSING DEPARTMENT, 24 JUNE 1940, REQUESTING PREPARATIONS FOR HOUSING 550 PRISONERS OF WAR AND FOREIGN CIVILIAN WORKERS

Cast Steel Works, 24 June 1940

Housing Department, through Dr. Beusch, [Initial] B [Beusch]

Subject: Employment of PW's and civilian workers from Belgium and Holland

We have filed request with the [state] employment office for allocation of 300 PW's and *250 civilian workers from Belgium and Holland.* As Mr. Frick informed me in answer to my inquiry on Saturday, the 22d, there is a chance for billeting the PW's in Bottroperstrasse and the civilian workers in Seumannstrasse.

Exact date of arrival cannot yet be indicated. We would suggest that you start preparations just the same.

At the same time I request to consider also releasing the hostel in Harkortstrasse for workers. If our experiences are good we are likely to ask for more civilian workers or PW's.

Specifications for billeting of PW's have already been handed over to Mr. Frick.

[Signed] IHN

[Illegible pencil note in margin.]

PARTIAL TRANSLATION OF DOCUMENT NIK-15515
PROSECUTION EXHIBIT 1566

MEMORANDUM FROM THE DEFENDANT LEHMANN TO KRUPP'S HOUSING DEPARTMENT, 21 MARCH 1941, CONCERNING ACCOMMODATIONS FOR FOREIGN WORKERS AND PRISONERS OF WAR

[Handwritten remarks and illegible initials]

Reference letter—Kuhlmann [Illegible initial]

B/dealt with

[Stamp]

Housing Dept.

21 March 1941

Incoming No. 863

Cast Steel Works, 21 March 1941

To: Mr. Lauffer, Housing Dept., via Mr. Ihn [initial] [Ihn] 21 March

Subject: Accommodation facilities for foreign workers

Reference is made to the information received from the Housing Department of 20 February 1941 and to the telephone talk I had today with you. I confirm once again that unfortunately no definite information is at hand on either the number or the date of their arrival.

There are the following of our requests pending:

[Handwritten]

Camp Kammstr.

550
+650
1,200 PW's

330 Frenchmen (36 of whom have already arrived)
1,200 Italians and
650 Prisoners of war.

The total requirements of Cast Steel Works up to 31 May 1941 amount to 3,000 workers.

Since Mr. Ihn approved yesterday expansion of the new camp "Kraemerplatz" the problem of accommodating the prisoners *has been solved for the time being.*

According to information received from Housing Department 1600 places [beds] for foreign workers are available. *To my mind it would be advisable to establish barracks for about 1000—1200 men in order to have a reserve against any future needs, enabling us, eventually, to billet also the prisoners of war of "Kraemerplatz."* Within the next weeks we have to expect German manpower from out of town to be allocated to us as well. Exact figures are not available either on this issue. Therefore, it might be useful to prepare right away accommodation facilities which can be fixed up in a hurry. I am thinking of halls [auditoriums] and the like.

We have to count on being assigned a larger number of Italians requested, presumably in the middle of April. Yet allocation of requested prisoners of war may take place as soon as within the next 3 weeks, so that arrangements have to be made to rush fixing up of the new camp on Kraemerplatz.

[Signed] LEHMANN

* * * * * * *

TRANSLATION OF DOCUMENT NIK-15521
PROSECUTION EXHIBIT 1567

LETTER FROM THE DEFENDANT LEHMANN TO KRUPP'S HOUSING DEPARTMENT, 6 AUGUST 1941, CONCERNING THE BILLETING OF ADDITIONAL FOREIGN WORKERS

[Stamp]
Housing Dept.
8 August 1941
Encl. 1975

Labor Allocation, 6 August 1941
Dr. Lehm./As.

Mr. Lauffer, Housing Administration, via Dr. Beusch
i.V.: [Illegible initial] 6 August 1941

Subject: Billeting of out-of-town workers

Cast Steel Works has a present need for 5,044 workers as reported to Employment Service Essen accordingly. Up to this time I have requested about 2000 foreign workers immediately, whose arrival can be expected within the next 3 months. Besides, we have to file an immediate request for 1000 more workers who will also be assigned from out of town. Hence, accommodations for 3000 men have to be rushed in a short period.

There is a chance that, upon completion of the Eastern Campaign, part of the soldiers will be discharged and released for armament work while on leave. Judging by experiences I can't give any exact information. In my opinion, in addition to having provided for those civilian German and foreign workers from out of town who are already billeted, a sufficient number of barracks must be erected soonest—at the end of the year latest—to accommodate the above-mentioned 3,000 men.

Of course, it is desirable to accommodate in barracks as soon as possible such foreign workers as are now billeted in makeshift halls. For, these workers keep complaining about poor housing. We will have to expect that they leave unless a change is made.

[Signed] LEHMANN

[Handwritten]

Mr. Kuhlmann has been reminded, on 11 August to return this.
[Illegible initials]

1. Mr. Becker for information [Initial] B.
2. Mr. Kuhlmann for information [Initial] K.
3. W. V. [Housing Dept.] 11 August.

Compare note on discussion with Mr. Scharschmidt on 11 August. Diary 2001

[Initial] M. 13/8/41

Copies:

Mr. Theilacker, plant kitchen.
Mr. Hintz, labor allocation within the plant.

TRANSLATION OF DOCUMENT NIK–10214
PROSECUTION EXHIBIT 1378

UNDATED RECORD FROM KRUPP FILES LISTING "CAMPS ESTABLISHED AND USED BY THE FIRM OF KRUPP," SHOWING NAME OF CAMP, LOCATION, CAPACITY, TYPE OF FOREIGN LABORERS OR PRISONERS OF WAR OCCUPYING CAMP, AND WHETHER DESTROYED BY AIR RAIDS*

Camps Established and Used by the Firm of Krupp

Name of camp	*Located in*	*Capacity*	*Occupied by*	*Condition*
Frintroperstr. Ost	Frintrop	1,000	Eastern workers	Destroyed
Frintroperstr. West	Frintrop	1,000	Italians	Destroyed
Rabenhorst	Borbeck	1,000	Eastern workers	Destroyed
Frintroperhoehe	Frintrop	200	Eastern workers	Destroyed
Schule Neerfeld	Frintrop	300	Italians	Destroyed
Noeggerathstr.	Essen-West	1,100	French PW's	Twice destroyed
Humboldtstr.	Muelheim-Heissen	2,500	Italian military internees	Destroyed
Raumerstr.	Essen-West	1,500	Russian PW's	Destroyed
Bottroperstr.	Borbeck	2,200	Italian and French	Destroyed
Bottroperstr. PW's	Borbeck	1,200	French PW's	Destroyed
Gaufeld	Borbeck	2,000	Italian and Dutch	Twice destroyed
Germaniastr.	Borbeck	1,000	Eastern female workers	Twice destroyed
Herderstr.	Borbeck	600	Russian PW's	Destroyed
Heegstr.	Borbeck	2,500	Eastern workers	Twice destroyed
Spenlestr.	Borbeck	2,500	Eastern workers	Twice destroyed
Sulterkamp I	Borbeck	800	Frenchmen	Twice destroyed
Sulterkamp II	Borbeck	200	Russian PW's	Twice destroyed
Hafenstrasse I	Bergeborbeck	100	Poles	Twice destroyed
Hafenstrasse II	Bergeborbeck	300	Russian PW's	Twice destroyed
Hafenstrasse III	Bergeborbeck	1,000	Czechs	Twice destroyed
Luescherhofstr.	Borbeck	1,000	Eastern workers	Twice destroyed
Gieperstr.	Borbeck	800	Poles	Twice destroyed
Haus Bergestr.	Borbeck	400	Germans	Twice destroyed
Amalienstr.	Borbeck	300	Germans	Twice destroyed
Saelzerstr.	Essen-West	400	Eastern workers	Twice destroyed
Kraemerplatz	Essen-West	2,000	Eastern workers	Twice destroyed
M.B. 20	Essen-West	100	Eastern workers	Twice destroyed
Kerkhoffstr.	Essen-West	200	Eastern workers	Twice destroyed
Unterdorfstr.	Essen-West	200	Western workers	Twice destroyed
Haedenkampstr.	Essen-West	300	Czechs, West Ukrainians	Twice destroyed
Kaupenhoehe	Essen-Holsterhausen	400	Frenchmen	Twice destroyed
Holleplatz	Essen	500	Poles	Twice destroyed
Seumannstrasse	Altenessen	3,000	Germans, eastern and western workers	Partially destroyed
Schmemannstrasse	Altenessen	1,100	Frenchmen	Destroyed
Tuttmannstr.	Altenessen	200	Eastern workers	Destroyed
Dechenschule	Essen-West	400	Eastern workers	Destroyed
Hedw. Dransfeld Haus	Essen-West	150	Germans	Partially destroyed
Muelheim	Muelheim	2,100	Frenchmen	Destroyed
Papestr.	Essen-Holsterh.	600	Poles	Destroyed

* Since the document refers to Italian military internees it was compiled after the summer of 1943.

Name of camp	*Located in*	*Capacity*	*Occupied by*	*Condition*
Jos. Hommer Weg	Essen-Bergerh.	1,200	Western and eastern workers	Partially destroyed
Schlageterschule	Werden	160	Germans	Not destroyed
Kap. Lehmannstr.	Essen-Wasserturm	450	Frenchmen	Destroyed
Weidkamp	Dellwig	2,000	Western and eastern workers, Germans	Destroyed
Kraftstrasse	Borbeck	300	Germans	Destroyed
Donnerstr.	Borbeck	170	Frenchmen	Destroyed
Weithoehnerstr.	Dellwig	60	Poles, Frenchmen	
Hoevelstr.	Altenessen	200	Czechs	
Mittelschule Borb.	Borbeck	400	Frenchmen	
Saal Saes	Dellwig	60	Poles	
Saal Fiedler	Borbeck	60	Frenchmen	
Saal Vortmann	Borbeck	60	Germans	
Widia	Essen-West	200	Eastern workers	Destroyed
Kanienenberg	Bergerhausen	200	Eastern female workers	Destroyed
Intzeschule	Essen-West	300	Eastern workers	Destroyed
Lintorf	Bez. Duesseldorf	2,000	Western and eastern workers	
Dorsten	Feldhausen	2,000	Italians	
Voerde	Dinslaken	2,000	Eastern workers	

TRANSLATION OF IHN DOCUMENT 478
DEFENSE EXHIBIT 232

LETTER FROM THE SPEER MINISTRY TO MAULICK, 25 MARCH 1942, TRANSMITTING TEXT OF HITLER'S LETTER TO ARMAMENT PRODUCERS AND HITLER'S DECREE FOR PROTECTION OF THE ARMAMENT INDUSTRY

The Reich Minister for Armament and Munition

Diary No. 371–7249/42 secret-260

[Illegible handwriting and initials]

Berlin W 8, 25 March
Pariser Platz 3
Telephone: 11 64 81
Registered letter

SECRET

[Stamp] [Illegible handwriting]

To the Stahlwerks-Verband, A.G.

Duesseldorf

Bastionstr.39

Dear Mr. Maulick!

The Fuehrer has sent the following letter to the armament producers:

The Fuehrer

Fuehrer Headquarters
21 March 1942

In order to facilitate the responsible work of the plant leader in armament production, I have instructed the Reich Minister for

Armament and Munition, to take decisive steps to further restrict and unify the entire information service.

At the same time I have commissioned the Reich Minister for Armament and Munition to simplify the quota system as much as possible, on the basis of increased responsibility to be carried by the industry.

In order to give the authorities of the Reich such assurance, as must be guaranteed in the case of distribution of supplies, I have ordered through decree of 21 March 1942 that false statements as to labor requirements or actual numbers of workers employed and with regard to the requirements or actual supply of raw materials, machines and such like at hand, will be punished with the most severe penalties.

The German manufacturer will consider the war-economic interests of the Reich as his own even without continuous supervision.

The greatest production is to be effected at the smallest cost. Considerations, originating from personal interests or from the thought of peacetime production will have to be ignored for the time being.

I AM CONFIDENT, THAT THE GERMAN MANUFACTURER WILL CARRY OUT UNSELFISHLY AND WITH ALL THE MEANS AT HIS DISPOSAL THE TASKS WHICH HAVE BEEN ENTRUSTED TO HIM AND ARE DECISIVE FACTORS IN WINNING THE WAR.

But whoever betrays this confidence and violates the duties of the producer, will be ruthlessly punished with the severest penalties, because thus he has excluded himself from the national community.

Signed: ADOLF HITLER

The decree of the Fuehrer for the protection of the armament industry, dated 21 March 1942, is worded as follows:

DECREE

of the Fuehrer for the Protection of the Armament Industry dated 21 March 1942

With regard to the commitment of available workers, war-essential requirements must have first priority, above all. The same applies to the distribution of raw materials, supplies and products, important for the armament industry. I therefore decree—

Article I

(1) Whoever purposely makes false statements—

1. about his labor requirements, or the number of workers on hand

2. about his requirements or the actual supply of raw materials, materials, products, machines or tools on hand, which are important for the armament industry, and thus endangers the necessary supply of the armament industry, will be punished with penal servitude, in particularly grave cases, which are very harmful to the armament industry, death sentence will be inflicted. In addition, fines in unlimited amounts may be imposed.

(2) In less severe cases the penalty imposed will be imprisonment and fines of an unlimited amount of money or one of these.

Article II

(1) Whoever has been guilty on the basis of other laws of making false statements in the sense of article I before the publication of this decree, will go free of punishment, if the false statements have been rectified within three months after the publication of this decree. The competent authorities will issue more specified regulations about the manner of the correction (rectification). This amnesty applies also to disciplinary penalties.

(2) This will not apply if charges have been brought against the culprit or if an investigation has been initiated.

Article III

(1) The People's Court will have jurisdiction. If the culprit falls under the jurisdiction of the Wehrmacht, the Supreme Military Court is the competent authority.

(2) Criminal prosecution will only follow at the request of the Reich Minister for Armament and Munition, who at the same time will act as delegate general for armament in the Four Year Plan. The request is to be submitted in cases of section 1, sentence 1 to the Reich Minister for Justice, in cases of section 1 sentence 2 [of article I] to the Chief of the High Command and of the Wehrmacht.

Article IV

The Reich Minister for Justice is empowered, to issue in agreement with the Reich Minister for Armament and Munition the legal and administrative regulations necessary for the execution and supplementation of this decree.

Article V

This decree will be put into effect 3 weeks after its publication. It will apply to the entire Reich territory and the Government General.

Fuehrer Headquarters, 21 March 1942

THE FUEHRER
Signed: ADOLF HITLER

The Reich Minister and Chief of the Reich Chancellory
Signed: DR. LAMMERS

The Chief of the High Command of the Wehrmacht
Signed: KEITEL

The German employer, who is aware of his responsibility, will justify the confidence of the Fuehrer.

The employer will be left with sufficient scope for developing his own initiative as far as inventories, procurement of supplies, or procurement of workers is concerned.

According to a special decree of the Fuehrer, the decree for the protection of the armament industry applies also to the Wehrmacht, in particular to the military procurement offices and those civilian procurement offices which are working for the Wehrmacht.

In the category of false statements in the sense of the decree will also fall the injustifiable increase in the submission of requests for workers or materials and such like, furthermore the inclusion of orders in the priority list, in violation of regulations.

The stipulation, that criminal prosecution will be carried out only at my request, will be a guarantee that only grave cases will be prosecuted in accordance with the decree.

I hope of course, that the existence of the penal order [the decree] alone will be sufficient to avoid the initiating of criminal prosecution.

The competent authorities will issue detailed regulations with regard to the rectification of previous false statements (article II of the decree).

The simplifications of the information and quota system, which are now possible will be carried out rapidly, one after the other.

Heil Hitler!

[Illegible signature]

PARTIAL TRANSLATION OF DOCUMENT NIK-11504
PROSECUTION EXHIBIT 524

EXTRACTS FROM ANNUAL REPORT OF KRUPP'S WAR MATERIAL DEPARTMENT FOR FISCAL YEAR 1941–1942, NOTING DEFENDANT MUELLER'S DEALINGS WITH HITLER AND OTHERS FOR EXPANSION OF ARMAMENT PLANTS, LABOR PROCUREMENT, AND RELATED MATTERS

Handwritten

[Handwritten] personal [Initial] G [Goerens] 7 May

N.R.

Prof. Goerens n.R. [after previous discussion]

Dr. Loeser: [Initial] L [Loeser] 25 May

[Stamp]

To Secretariat A. von Bohlen

[Initial] G [Goerens] 11 May

FRIEDRICH KRUPP
AKTIENGESELLSCHAFT
ESSEN

Report on the Fiscal Year 1941–42 of the
War Material Department

3d Copy

[Stamp] *SECRET*

1. This is a State secret within the meaning of article 88 of the Reich Penal Code.

2. Only to be forwarded under cover and to be registered if mailed.

3. To be kept at the responsibility of the receiver, securely locked.

Economic Report of the War Material Department for the fiscal year 1941–42.

Business Report 1941–42

The turnover of the war material departments was unfavorably influenced by the lack of workers in the plants of the Cast Steel Works producing war materials. Further workers were inducted by the army in the course of the year under review. Replacements such as prisoners of war and civilian foreigners were inadequate with regard to both numbers and quality. The existing installations were therefore not fully utilized.

* * * * * * *

These basic demands necessitated a thorough check of all designs and the development of numerous new types, as a result of which—and particularly because of the extremely short time given us in some cases for deliveries—very great demands were again made on the workers of the artillery construction department, especially since many people were drafted into the Wehrmacht. At the beginning of the business year 1941–42, the artillery construction department had a staff of 1928, of whom 155 were drafted into the Wehrmacht; at the end of the business year 1941–42 there were 2,010 workers, of whom 461 were in the army, so that the number of workers employed in the artillery construction department decreased by 224 during the year covered by the report. Throughout the year 1 hour overtime was required daily and sometimes work even had to be done on Sundays.

Just as in the past year, suggestions for the further development of artillery construction and production were given either by the Fuehrer himself or by the Reich Minister for Armament and Munition, Dr. Todt, or, after his death, by Professor Speer. In the year covered by the report, Dr. Mueller, in his capacity as chairman of the Main Committee for Armaments and Equipment, later as chairman of the Armaments Commission, participated in three conferences on 5 March, 14 April, and 27 July with the Fuehrer, which took place in the Fuehrer Headquarters. The necessity for a further increase in armament production was emphasized in two basic speeches by Reich Marshal Goering on 7 November 1941 and 20 May 1942. Above all, Reich Marshal Goering demanded the utmost in efficiency by standardizing types and by utilizing on industry's own responsibility, the newly formed committees and rings.

At the first conference with the Fuehrer, while commenting on the production figures for the individual pieces of equipment, the Fuehrer compared these with those of the First World War and stressed the necessity of simplifying the designs. He referred particularly to the predominating importance of antiaircraft guns and their development in the battle against airplanes and combat vehicles.

The second conference on 14 April 1942 took place in order to present to the Fuehrer new models, including the Krupp antitank gun 41, developed on the basis of experiences in the Russian campaign of 1941.

At the same conference, Dr. Mueller, on the basis of growing needs, referred to the Krupp firm's interest in starting shell production on a large scale in the Ukraine. This suggestion was gratefully accepted. Krupp is also interested in manufacturing automatic weapons in connection with a concentration camp in

the Sudetengau. This project, too, has been taken up in the meantime by the technical office.

The third conference with the Fuehrer was called in order to present models and drafts for a number of newly developed guns and self-propelled gun carriages to the Inspectorates and to the Armament Commission. New tactical demands were made on the field artillery; above all, a strong, mobile escort artillery for the armored divisions was demanded, for which Krupp made some suggestions for 8.8 cm. antitank guns, light and heavy field howitzers, and self-propelled gun carriages for light and heavy field howitzers and Moerser. This project, which had come up in the spring of 1942, had taken on a tangible shape after a number of conferences with the Ministry, the Armament Commission and Inspectorates 4 and 6, and led to the aforementioned presentation of wood models. A decision, however, as to the choice and final execution of the types, has not yet been reached.

In October 1941 the first discussion took place between Reich Minister Dr. Todt and Dr. Mueller on increasing production by the use of the assembly line or "stroke process" [Taktverfahren] in artillery construction. This idea was immediately taken up by Krupp and led to the planning of a plant of this type within the already existing intentions of the firm to build new plants in Silesia. The project, which was originally intended for the navy, then for mass production of antiaircraft guns, quickly led to an order to construct a shop for the manufacture of 600 light field howitzers per month. Construction of the plant near Markstaedt in the vicinity of Breslau was begun in the spring of 1942; in the spring of 1943 the plant will start producing artillery parts. After the order to build the plant had been given, construction was frequently hampered, since there were protests from many sides against giving this order to Krupp. The obstacles, however, could be overcome, partly through the personal intervention of Reich Minister Speer. The exceptional difficulty in obtaining workers for the new plant will presumably also be overcome, thanks to the help of the Gauleiter of Lower Silesia.

Due to the basic new demands in armaments mentioned at the beginning, the Minister after talking with the Fuehrer came upon the idea of forming a new commission which would be entrusted primarily with the control and development of armaments by concentrating together all constructive elements and preparations for serial production. It seemed advisable not to let this very important work fall into other hands. On the other hand the Armament Committee successfully took up its work and rationalization, standardization, and increase in production already showed good results. However, it was now necessary, in order

to achieve still better results, to increase armament production considerably, as this committee, if it wished to achieve the best possible results would have to handle all problems concerning labor allocation quotas, raw materials and their proper distribution and use. This work had kept Dr. Mueller from his other tasks to such an extent that it also seemed more expedient even for this reason alone, to relinquish the chairmanship of the Armament Committee, and instead to take over the chairmanship of the Armament Commission which was more important for the preparation of the subsequent mass production.

In manufacturing experimental guns, and especially experimental ammunition, the very limited workshop capacity available for this purpose, which is still further reduced owing to the adverse conditions for shell production in the present shell manufacturing shop (Haldenbrand), is making itself felt.

* * * * * * *

The constant endeavors of Dr. Mueller, to obtain workers for the plant in place of those called up to the services, and to cope with additional work, resulted in the firm's receiving increasing allocations of foreign skilled and unskilled workers (Dutchmen, Poles, Frenchmen, and eastern workers). On the other hand, fewer and fewer German workers were received. Also the numerous attempts, to get back drafted employees of the artillery designing department and of the plants, for dealing with special priority jobs, were, almost without exception, unsuccessful.

At the first conference with the Fuehrer on 5 March 1942, Dr. Mueller also touched on the question of labor allocation, and explained that the increase as a result of the Hindenburg program during the First World War was only possible because the necessary workers were allocated to industry. The Fuehrer deemed it a matter of course that works like Krupp should, in all circumstances, receive the required number of workers, indeed he even thought it impracticable for foreigners to be employed by Krupp. Several more discussions on the same subject took place between Dr. Mueller and the Reich Ministers Dr. Todt and Professor Speer, which resulted, in part, in the situation being eased and a certain amount of protection for the Krupp firm, but did not, in the long run, bring any improvement in the supply of German workers.

The influx of foreigners in the course of the months became so great that Dr. Mueller had to point out the necessity of speeding up considerably the building of barracks for housing these people. The situation became so serious in the summer of 1942 that in spite of the great shortage of workers—the immediate require-

ments of the Cast Steel Works had increased to about 8,000 men—the allocation of further workers had to be suspended because the necessary billetting space was lacking.

* * * * * * *

TRANSLATION OF DOCUMENT NIK–8485
PROSECUTION EXHIBIT 1219

TELETYPE FROM DEFENDANT MUELLER TO REIFF, KRUPP REPRESENTATIVE IN BERLIN, 25 APRIL 1942, CONCERNING "EXTENSION PROJECTS" OF ARTILLERY CONSTRUCTION DEPARTMENT AND MAKING SUGGESTIONS REGARDING MANPOWER PROBLEMS, INCLUDING KRUPP MANUFACTURE IN A CONCENTRATION CAMP

Essen, 25 April 1942
R [Ruestungs-Armament] Office No. 3
Mr. Reiff
To be submitted without delay

[Handwritten]
3 x
11,12
11,53
11,16
Mue

Subject—Extension projects
[Handwritten] Artillery Construction Department
Previous correspondence: Your teletype No. 61 of 24 April 1942.

If a reduction in building volume from 80 to 48 million RM is necessary,—against which, in my opinion, the strongest protest should be voiced in view of the urgency which the Fuehrer has accorded to artillery construction—Colonel Leyers' plan appears to me basically as the most desirable one.*

With regard to Krupp's construction plans I feel confident in promising that Essen will turn out 80 s.i.g. [schwere Infanterie Geschuetze—heavy infantry guns]. This plan should be of interest to the Wehrmacht, because considerable preliminary work can already be done here, even though the temporary buildings have not quite reached the production stage. For your confidential information be it said that we could start with the production in a very short time (1–2 months), provided that we have the nec-

* Colonel Leyers testified as a defense witness. Extracts from his testimony are reproduced below in section VIII B 4.

essary machines and manpower, because the switch manufacturing program [das weiche Programm] can be temporarily concentrated according to need. This fact however is not to be made public to outsiders, but one should only speak of occasional assistance given by other factories. Such a short preparation time and such small building volume you will not be able to find anywhere else.

Concerning the extension of the S factory,* I consider the execution [of the construction] in two building sections feasible, if there should be no other possibility, in spite of the fact that this has been expressly pointed out as impracticable by Reich Minister Speer. I should however recommend not to equip the first part of the building exclusively for gun barrels, but also partly for the manufacture of gun carriages, that is to say, about 300 gun barrels for light field howitzers and 200 gun carriages for light field howitzers and 100 gun barrels for heavy field howitzers. It is recommended to include the manufacture of these gun carriages even though it may be only to a negligible extent, also in reference to Colonel Leyers' apprehension, so that he is not to rely on the one place at his disposal when we install the manufacture of heavy infantry guns in our upper section. With regard to the proposed extensions of S, there is the possibility—in case of serious need and in the event of an interruption of activities at the gun-carriage factory in Essen—to transfer to S not only the manufacture of heavy infantry bomb mortars but also other types of manufacture. I further believe that, with the execution of the intended program, there will certainly ensue an increased productivity, in course of time, with the help of available installations at S, because of the continually progressive measures for rationalization.

I fully agree that the reductions proposed for the antiaircraft factory in Katowice seem opportune.

In reference to the construction at Laband [Upper Silesia] for the production of the 3.7 cm. antiaircraft factory I have already advised Colonel Leyers of my basic objections against establishing there a more extensive plant, and that especially because the workers of that district are not suited to such a manufacture. I should earnestly recommend to Colonel Leyers, as mentioned before, to take up the question of manufacture by Krupp in the concentration camp in the Sudetengau and that also for production of the automatic guns. In connection with it I feel sure that a considerably reduced building volume will be required here, the SS presumably setting up, for the greater part on their own

* "S" here stands for "Schlesien," the province of Silesia in eastern Germany. Krupp's Bertha Works at Markstaedt, Silesia, was often referred to as the "S-plant" or simply as "Markstaedt."

initiative, the necessary structures, if only on the basis of temporary operation, which implies a saving of building volume.
Dr. Mueller
ngl.

[Handwritten] FS [Teletype] 13 of 25 April 1942

TRANSLATION OF IHN DOCUMENT 243
DEFENSE EXHIBIT 238

DIRECTIVE OF REICH MINISTER SPEER TO THE MANAGEMENT OF THE COMMITTEES AND RINGS, 6 MAY 1942, CONCERNING THEIR RESPONSIBILITIES*

To the management of the committees and rings.

The main committees have the task to lead the entire industry, which is working for them, towards highest output of production.

The directors of the main committees and of the special committees as well as of the main and special rings are therefore instructed by me, not to attempt in future to reach their goal with the firms solely by means of their power of persuasion.

This is not the responsibility which was entrusted to them as executives of the Reich Ministry for Armament and Munitions.

I expect from the directors of the main committees and special committees and of the main rings and special rings, that they will carry out their task by means of clear instructions and orders [to be given] to the industry. They will have my full support.

Signed: SPEER

* Taken from "Reports of the Reich Minister for Armament and Munitions (Secret), No. 3, Berlin, 6 May 1942."

903432—51——45

TRANSLATION OF DOCUMENT NIK-7445
PROSECUTION EXHIBIT 1111

REPORT BY REIFF, ON A CONFERENCE IN THE MINISTRY FOR ARMAMENT AND MUNITIONS, 1 JULY 1942, CONCERNING CONSTRUCTION OF KRUPP'S MARKSTAEDT PLANT IN SILESIA AND RELATED MATTERS

Rff/Schi

AKS [Artillery Construction]
No. 54060 g. of 7 July 1942

File: 11 S 12 SW 18
Administrator in charge: Rff [Reiff]
Copies to: 2 Pf [Pfirsch], 1 AB
Distribution: Mueller, Eberhardt, Daur, Reiff, B, Hupe, TB-Ros./AKS

[Stamp] *SECRET*

5 July 1942

Report of Mr. Reiff* on the meeting at Berlin, on 1 July 1942

Present:

For the Reich Ministry for Armament and Munitions
Oberdienstleiter Saur
Major Schaede
Desch

For H.Wa. [Army Ordnance Office], group WuG [Weapons and Equipment] General Philipps

For H.Wa. [Army Ordnance Office], group WuG—6, Colonel Audoersch

For H.Wa. [Army Ordnance Office], group WuG—6, Lieutenant Colonel Wider

For H.Wa. [Army Ordnance Office], group WuG—2, Colonel Leyers

For H.Wa. [Army Ordnance Office], Chief Eng. 4, Oberreg. Baurat Reyher

For the Main Committee, Dr. Rohland, Armor, Oberlaender,

* Reiff was a member of Krupp's KM department (war materials) in Essen. Later, beginning in July 1943, he was one of Krupp's leading officials at the Bertha Works in Markstaedt, Silesia. He was the author of these minutes of a conference at the Reich Ministry for Armament and Munitions, where he participated as chief of the Special Committee Heavy Weapons, a branch of the Main Committee Arms. The various main committees were semigovernmental agencies composed principally of technical experts from private industry, and functioned under the general supervision of the Speer Ministry (Ministry for Armaments and Munitions, later the Ministry for Armaments and War Production). Reiff appeared as a defense witness and extracts from his testimony are reproduced below in section VIII B 4.

For the Main Committee Arms—

Tix
Heynen (S.A.1)
Schaaf (S.A.2b)
Holl
Koepke
Dr. Hoehner
Reiff (S.A.3d) [Special Committee 3d],

and several other gentlemen

The Reich Minister for Armament and Munitions had invited the Main Committee Arms to a meeting in order to decide to whom the steel construction workshops which Mr. Desch has vacated should be made available and what type of manufacture should be taken up in such workshops.

After the workshops which were vacated by Mr. Desch had been apportioned among the individual special committees, *the question was raised in what measure the new construction projects were to be abandoned. In that connection Mr. Desch stated that, apart from the steel construction firms about which he had already reported, he now also could make available for arms production the workshop at Falkensee, covering 65,000 square meters, and that he proposes to close down Markstaedt for it.*

It was furthermore suggested that the proposed extension project for Skoda be dropped, because sufficient space would become available in its own steel construction workshop. *Following this, Mr. Saur spoke at some length on the necessity of curtailing the building projects.* This was necessary, particularly because means of transportation could not be made available in the measure called for by the individual construction jobs if carried through. As an example, Mr. Saur made mention of an electrode factory in Nuernberg which could not be completed, notwithstanding the fact that just this very construction job was particularly urgent and that the reason was that the required materials did not arrive in sufficient quantities to permit uncurtailed building at full speed.

An additional reason for suspending the new construction projects was the fact that it was now possible to make use of the steel construction workshops which had just been made available by Mr. Desch. An approximate *total of 400,000 square meters is now being allocated.*

A large scale utilization of [*facilities of*] *the machine industry was also planned,* the effect of which would, to some extent, be ameliorated by the fact that the machine plants which were to continue in operation were to work in two shifts. The others were to be made available for production of strategic importance.

Mr. Saur expected that this would result in further relieving the pressure on the tank and arms industry to an appreciable extent.

Furthermore, it was planned to handle construction jobs as much as possible in the workshops now made available.

Relative to the question of suspension of building projects on which work had already started, Mr. Saur commented as follows:

The *most urgent project was Huelsebeck* (under the control of Duerkopp, located in the vicinity of Stadthagen) for the fitting of automatic weapons. *Next in line was Katowice* (I.G. and Berghuette, respectively), for the fitting of antiaircraft gun barrels. A great delay had already occurred in that connection. *Markstaedt was only third in line. He was of the opinion that Markstaedt was to be closed down under all circumstances,* since in going through with it one was anyhow bound to run into great delays. We were simply fooling ourselves; *the prerequisites did not exist.* In that connection, Saur also turned to Colonel Leyers and stressed that—as he well knew—this was also L's [Leyers'] point of view.

Most of the gentlemen expressed their concurrence with Saur's comments. Mr. Rohland, in particular, pointed out that the steel capacity for the supply of the new projects was also inadequate.

When called upon by Mr. Sauer, Colonel Leyers expressed himself in similar terms. He emphasized that Huelsebeck was to be carried out under all circumstances and likewise Katowice. *As regards Markstaedt, his viewpoint was about the same as that of Saur; he pointed out, however, that impediments could be overcome* because, on the one hand, it is the Fuehrer's wish to have Markstaedt carried out—also in order to provide an evacuation plant for Krupp* and, furthermore, Mr. Speer had given definite assurances to Mr. von Bohlen. There were, therefore, certain obstacles to be overcome. *Following this Mr. Saur asked for a meeting of a very small circle in order to make final decisions on the requisitioning of the steel construction workshops,* and to determine which building projects were to be carried out and which were to be discontinued, in which connection *Mr. Saur proposed to draft a written request to the Minister for the closing of Markstaedt.* Mr. Saur asked Mr. Leyers, Mr. Tix, and Mr. Schaaf to attend that meeting.

At that meeting I refrained from expressing any opinion but I only informed Mr. Tix briefly—as he had previously known hardly anything about Markstaedt—that this involved, first of all, a gun-barrel works where antiaircraft gun barrels were also to be built.

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* Concerning earlier discussions of an evacuation or emergency plant for Krupp in Silesia, see Mueller Document 11, Defense Exhibit 2289, reproduced immediately below.

Mr. Tix expressed the opinion that we did not require an evacuation plant in the East. It had been shown that the Ruhr territory was well protected. *That he himself was also planning to arrange for the required expansion with Hanomag, thus to permit increased production of equipment, type 40.* Tix inquired, however, whether in our capacity as a firm we had an interest in the Markstaedt workshop. When I answered in the affirmative he stated that the extension projects planned by the big firms should be supported.

I asked Mr. Tix if possible to endeavor at least to avoid a final decision being reached on the matter so that the question could first be thoroughly discussed by all parties concerned. I personally was still of the opinion that going through with the big barrel works in the East was absolutely necessary and that, sooner or later, it would be carried out in any case.

I told Colonel Leyers that I, in his place, would at least see to it that no definite decision would as yet be taken during the subsequent meeting since, after all, he probably was convinced that the gun-barrel works in the East was needed.

The following day Mr. Tix called me up by telephone and informed me that during Mr. Saur's meeting the question of the new construction projects had not arisen again.

On the same day (2 July) I went to see Colonel Leyers in order to discuss with him once more the Markstaedt question. I stressed the necessity for the new structure at "S" and followed somewhat the line of thought brought out in the attached exhibit.

Above all I stated to L. [*Leyers*] *that a gun factory in the East was virtually necessary in order to utilize for the manufacture of guns the available and potential supplies of primary materials, on the spot.* That only in such manner would it be possible to have something to fall back on for the most urgent tasks should a plant in the West be at any time damaged by air attacks.

At the same time I called his attention to the necessity for production of antiaircraft gun barrels and that for this a factory of the largest dimensions possible would be demanded. If we were to close down now, valuable time for further construction would, of course, be lost again. I presumed his position expressed towards Mr. Saur had been dictated rather by tactical motives, but that in reality he now as before was in agreement with us that the construction should be completed. *To this L. replied that he realized the need for gun barrels. Facilities for gun barrels were entirely inadequate; he needed gun-barrel workshops. He has to make this demand over and over again.* Unfortunately, it was a fact that an increase in production of antiaircraft gun barrels—which he himself also considered necessary—was not at present provided for in the Fuehrer's program.

In actual fact, it did not matter to him where the plant was to be located. I once more pointed out very plainly to L. that this very attitude on his part was a mistake; it should not be immaterial to him where the plant would be located because, for a variety of reasons, it should be located in the Silesian sector.

In conclusion L. once more pointed out that for the near future the building which is going on at Markstaedt should not be stopped at all.

From the discussion I gained the impression that basically L. could not disagree with Saur's arguments, but that he also realizes that some day he will need the building in Silesia. At the same time he undoubtedly attaches great value to cooperation with us because he realizes that finally, after having the new works we shall be the first to be ready to take the lead and because he knows that quick and reliable execution of the program is guaranteed with us.

[Handwritten notation]

T. 17 July 1942

1 enclosure

Appendix to Minutes AKS No. 54060g of 7 July 1942

1. The following reasons speak in favor of initiating armaments production in Silesia:

As far as we know, so far no appreciable armaments production in that territory.

Less danger from air attacks.

Shortened supply lines to the East.

As a result, reduced burden for the transportation system of the German Reich. It is the Fuehrer's express wish that the workshop to be erected in Silesia should, at the same time, serve as an evacuation plant for the Essen workshops.

Very advantageous location since the primary materials as well as the coal are produced in that territory (Silesia and Upper Silesia, respectively). Extensive agricultural hinterland, and thus excellent facilities for feeding the personnel.

Railway sidings available.

Power available.

Situated on waterway (Oder).

The new works will first take up the production of [gun] barrels. This permits most important saving in labor and, particularly, in skilled workers. Furthermore, experience in large-scale mass-production will be gathered for the first time. A quick start for operations is guaranteed because Krupp already has released the best Essen workers for assignment to jobs there.

2. The establishment of a large-scale plant for producing gun barrels appears to be very important. Initially 230 light field howitzer barrels are to be manufactured completely, also 150 light field howitzer spare barrels. The construction of machines will be such, however, that in the place of light field howitzer barrels the proportionate number of 8.8 cm. antiaircraft gun barrels can be manufactured or, in some section of the works, also 100 heavy field howitzer barrels. Manufacture also covers—complete barrels for 100 heavy field howitzers on a monthly basis.

After completion of the first expansion step 20 complete barrels for 12.8 cm. antiaircraft and 20 spare barrels will be produced per month; after completion of the second expansion step, 25 additional 12.8 cm. antiaircraft and 25 spare barrels will be produced. The machines will be arranged in such a manner that instead of half the number of 12.8 cm. antiaircraft gun barrels, a corresponding number of 21 cm. Moerser and 17 cm. gun barrels can be produced. This very possibility, a new plant being able to be utilized for the manufacture of antiaircraft gun barrels, seems to be an urgent necessity in view of the increasing number of enemy aircraft and the consequent increased use of existing antiaircraft barrels.

3. The construction job is being carried out in particularly favorable conditions. The majority of the construction workers are prison inmates and Jews in punitive detention; 1,200 men have already been gathered in one camp there. The camp capacity is approximately 2,000 men. In addition an adequate number of construction workers will be made available by the SS so that the construction will be carried out with the greatest possible speed. The construction material is waterborne and obtained in the immediate vicinity (cement from Oppeln; gravel pit is also on the construction site). The steel is also shipped by waterway. Incidentally, the buildings will be of the simplest possible type; for example, wooden roofs.

4. The workshops, which are available at Falkensee are far too large (aisles 30 m. wide); consequently, rails for cranes would still have to be laid which, in turn, would call for pillars and foundations. The essential saving is confined to iron consumption and the construction scale as applied for roof and walls. In other words, to take up production at Falkensee would also call for large-scale construction. Apart from that the workshop in its present size is inadequate (65,000 square meters). It is doubtful whether, at Falkensee, the electric current which has been made available would be adequate because manufacturing as now to be taken up will involve heavy current consumption. All the materials needed for manufacture (coal, raw materials,

semifinished items, etc.) have to be shipped either from the Ruhr territory or from Silesia, to Falkensee. To take up production at Falkensee would currently call for heavy transports which probably will soon surpass the transports needed for the expansion in Silesia.

Falkensee being a suburb of Berlin is much more vulnerable to air bombardment than the plant in Silesia.

In conclusion one may say that provided the war comes to an end at an early date it would be possible to forego building the new workshop in Silesia also because then it will be possible to have recourse, to a considerable extent, to the machine industry's capacity, as it is being planned.

If, on the other hand, one has to count on an extended duration of the war it should be considered that—

(1) The danger exists that in an essential measure that part of the machine industry which is being utilized will, after all, be again needed for the original purpose or similar ones,

(2) The demand for Flak barrels—especially in view of the increasing air raids—will increase tremendously,

(3) Particularly in the case of an expected protracted duration of the war all means should be exploited in order to carry out manufacture with the lowest possible expenditure in terms of labor. This, however, will be possible only in a works such as the one planned for Silesia.

TRANSLATION OF MUELLER DOCUMENT 11
DEFENSE EXHIBIT 2289

LETTER FROM GENERAL THOMAS[1] TO GENERAL VON HANNEKEN,[2] 28 AUGUST 1940, CONCERNING THE DESIRABILITY OF ESTABLISHING KRUPP PLANTS IN UPPER SILESIA

[Stamp] Draft

[Handwritten] 28 August 1940
Armament and Raw Materials 30/8
[Illegible initials]
[Handwritten] [Handwritten] K. Th 28/8
Krupp

Dear Hanneken:

Through the Krupp firm as well as through the Main Trustee Office East, I learned that the work of the Main Trustee Office in exploiting the large-scale enterprises of Upper Silesia has been

[1] Thomas was chief of the Military-Economics and Armament Office of the High Command of the Wehrmacht. General Thomas died in a hospital in the U. S. Zone of Occupation in Germany during the course of the Krupp trial.

[2] Von Hanneken was at this time chief of Main Department II in the Reich Ministry of Economics. This department was concerned with industrial production.

suspended by the Reich Economic Ministry, because it is desired to combine the exploitation of the Upper Silesian enterprises with that of the newly expanding enterprises in the West. As a result of this policy, the possible establishment of a Krupp plant in Upper Silesia will be deferred for some months yet. This does not seem to me to be very desirable in the interest of the over-all armament situation. The Fuehrer said not long ago that he sees a development in the air war similar to that in the land warfare between 1916 and 1918; then there was the rise of the great artillery duel in the war of position; and now there are the increasing bombing raids. Fortunately we have so far been lucky regarding our armament plants. But if a successful English bombing raid should ever be made on the Krupp plants, such an event could certainly have serious consequences for our armament production. And since we are seemingly preparing ourselves for a fairly long war, it appears urgent to me that we set up Ausweichbetriebe* in Upper Silesia for the large-scale enterprises in the West which are in danger. From the standpoint of armament production, then, I must consider it to be imperative that Krupp establish itself as soon as possible in Upper Silesia, for the present trusteeship is not bringing to pass what we had intended: new investments and a modern expansion of the Upper Silesian works. I would be grateful if you would think over the entire question from this angle and let me know your opinion on it. I would also like to remark that it seems more important to me that Krupp become established in Upper Silesia than that the plants be returned to the Flick group, for the latter is not in such a vulnerable position as far as armament production is concerned as Krupp in Essen.

Greetings and Heil Hitler

Yours,

[Signed] TH. [Thomas] 28 August

* Plants built in areas less vulnerable to Allied bombing raids which could carry on production in case the main plant was destroyed.

TRANSLATION OF DOCUMENT NIK–15513
PROSECUTION EXHIBIT 1558

FILE NOTE OF SPEER MINISTRY CONCERNING LABOR ALLOCATIONS TO KRUPP, 8 JULY 1942, NOTING ALLOCATION OF MORE THAN 6000 FOREIGN WORKERS IN MAY AND JUNE 1942 AND A REQUEST TO THE SAUCKEL OFFICE FOR FURTHER ALLOCATION TO KRUPP OF "ENTIRE CONVOYS" OF RUSSIAN CIVILIANS

Copy

Armament Ministry
No. 371–8605/42g–78/216/VII

[Stamp] Secret

File Note for Reich Minister Speer*

Berlin, 8 July 1942 Gue.

Subject: Labor allocation to the firm Fried. Krupp A.G., Essen

According to information by the firm Fried. Krupp A.G., Essen, the labor allocation situation developed in the months of May and June as follows:

Requirements		*Allocations*		
Immediate, as of 1 May 1942.	7,961	May—	Germans	189
Drafted in May 1942	602		Russians	625
Loss through turnover in May.	575		Other foreigners	2,053
Additional requirements for expansion of program.	876			
	10,014			2,867
Allocations—May	2,867			
Immediate, as of 1 June 1942.	7,147	June—	Germans	164
Drafted in June	1,643		Russians	2,514
Loss through turnover	694		Other foreigners	1,299
Additional requirements for expansion of program.	3,312			
	12,896			3,977
Allocations—June	3,977			
Immediate requirements 1 July 1942.	8,919	Allocations May–June		6,844

* Albert Speer was first designated as Minister of Armament and Munitions and later as Minister for Armament and War Production. The term "Speer Ministry" was commonly applied to both designations.

From this presentation it may be seen that—

1. Immediate requirements increased from 1 May 1942 through 1 July 1942 by 958, in spite of the allocation within the same period of a total of 6,844 workers. This instance is typical of the development of the labor allocation situation of the entire armament industry during the past months. Everywhere a similar picture is shown—in spite of large allocations (mainly Russians) there is in most cases no decrease, in the present instance even a considerable increase, in labor requirements. This can be explained, in the first place, by the continuously mounting additional requirements due to the expansion of the program.

2. The requirements of the firm Fried. Krupp A.G. for replacements for German workers drafted into the armed forces have been met currently and in time.

3. The intimation of the Essen Labor Office (Dr. Simon) that the firm Fried. Krupp could not take care of more workers than already allocated, is incorrect, in view of a still existing need for 8,919 workers for the beginning of July.

As the firm Krupp informs us, there are no substantial difficulties concerning billeting, since one camp for 1,000 workers has already been built, further quarters are under construction and will currently be made available. Furthermore, the labor office has promised procurement of emergency billets.

The complaints of the firm Krupp about allegedly insufficient labor allocations are unfounded. They have been supplied with almost 7,000 workers within 2 months. Nevertheless, I once again asked the Plenipotentiary General for Labor Allocation* to allocate to the firm of Krupp 3–4,000 more workers in entire convoys from the Russian civilian workers presently arriving in Service Command VI.

[Signed] V. NICOLAI

* Fritz Sauckel, one of the defendants sentenced to death before the IMT, Trial of the Major War Criminals, *op. cit. supra*, vol. I, p. 366.

TRANSLATION OF DOCUMENT NIK–15500
PROSECUTION EXHIBIT 1559

LETTER FROM THE MINISTRY FOR ARMAMENT AND MUNITIONS TO THE SAUCKEL OFFICE, 8 JULY 1942, CONCERNING ADDITIONAL LABOR ALLOCATIONS TO KRUPP

Reich Minister for Armament and
Munitions
No. 371–8605/42g–78/216–VII
To be referred to in reply.

Berlin W.8,
Pariser Platz 3
Telephone: 11 64 81
8 July 1942 Gue.

[Stamp] *SECRET* [Stamp]

Reich Labor Ministry
18 July 1942
V 5780 28/4782/42 g.

To Plenipotentiary General for Labor Allocation
Attention Ministerialdirigent Dr. Timm oViA. [or deputy in office]
Berlin SW. 11
Saarlandstr. 96

Subject: Labor allocation to firm Friedrich Krupp A.G., Essen

The enclosed filenote* is forwarded for information. Request is made to instruct District Employment Office Rhineland accordingly.

Reich Minister Speer places much emphasis on having assigned to firm Friedrich Krupp A.G. another entire convoy of about 3–4000 men without delay.

I would appreciate any information on action taken by you.

BY ORDER:
Signed: VON NICOLAI
Certified:
[Signature illegible]

* Document NIK–15513, Prosecution Exhibit 1558, reproduced immediately above.

PARTIAL TRANSLATION OF DOCUMENT NIK–4902
PROSECUTION EXHIBIT 610

EXTRACTS FROM MINUTES OF THE 10TH MEETING OF THE CENTRAL PLANNING BOARD, 15 JULY 1942, ATTENDED BY DEFENDANT ALFRIED KRUPP, DEALING WITH INCREASED IRON PRODUCTION AND LABOR REQUIREMENTS

Reich Minister Speer
Ministry Office
[Handwritten] RVE

Berlin, 16 July 1942
Dr. Goe/W

[Stamp] Secret

Minutes on 10th Meeting of the "Central Planning Board"[1]
on 15 July 1942

Present:

Reich Minister Speer	
Field Marshal Milch	
State Secretary Koerner	
Kommerzienrat Roechling[2]	Reich Association Iron
Dr. Rohland	Reich Association Iron
Mr. von Bohlen und Halbach	Reich Association Iron
Dr. Langen	Reich Association Iron
State Secretary Landfried	Reich Ministry of Economics
General Director Pleiger[3]	Reich Association Coal
General Director Dr. Voegler	
Ministerialrat Dr. Steffler	Four Year Plan
Ministerialrat von Normann	Four Year Plan
State Secretary Schulze-Fielitz	Reich Ministry for Armament and Munitions
Dr. Schieber	Reich Ministry for Armament and Munitions
Brigadier General Becht	Reich Ministry for Armament and Munitions

[1] The Central Planning Board was formed by a decree of Goering on 22 April 1942. Initially it was composed of Albert Speer, Minister for Armament and Munitions; Koerner, Goering's deputy for the execution of the Four Year Plan; and Air Force Field Marshal Milch. Later Albert Funk, Reich Minister of Economics, became a member. Speer and Funk were tried in the IMT case. (Trials of Major War Criminals, *op. cit. supra*, vol. I.) Milch was the sole defendant in the Milch Case, United States *vs.* Erhard Milch (Vol. II, Case 2). Koerner was tried in the Ministries Case, United States *vs.* Ernst von Weizsaecker, et al. (Vols. XII–XIV, Case 11). The Central Planning Board was an interagency board. Its decisions in the field of war economy were decisive for many ministries and other government agencies. Its functions involved particularly the determination of over-all production schedules and manpower allocations in connection therewith.

[2] Hermann Roechling was tried for war crimes by a tribunal sitting in the French Zone of Occupation, Rastaat, Germany. The judgment in the case is reproduced as an appendix to the Ministries Case, vol. XIV, this series.

[3] Paul Pleiger was tried in the Ministries Case, United States *vs.* Ernst von Weizsaecker, et al., Case 11, Vols. XII–XIV.

Lord Mayor Liebel	Reich Ministry for Armament and Munitions
Ministerialrat Wissmann	Reich Ministry for Armament and Munitions
Major Wagner	Reich Ministry for Armament and Munitions
Mr. Schlieker	Reich Ministry for Armament and Munitions
Dr. Ing. Goerner	Reich Ministry for Armament and Munitions

During the meeting the *increase of iron production* is discussed.

* * * * * * *

The total requirements not covered are estimated to be approximately 780,000 tons per month. This additional quantity of iron must be made available particularly in the fourth quarter.

Envisaged Increase in Iron Production

Reich Association Iron is submitting a plan which finishes with a maximum increase of production of 560,000 tons per month; see enclosure. Prerequisites as listed further down must be met if this additional production is to be assured. For the increased iron production the Reich Works Hermann Goering are making the following units available to the Ruhr:

750,000 tons Bueltner ores
100,000 tons pig iron
100,000 tons scrap, in blocks
33,000 tons blocks
100,000 tons semiprocessed material

* * * * * * *

Prerequisites for the increased production

1. Utilization of scrap reserves. The necessary measures have already been initiated.

* * * * * * *

11. Labor allocation—It is reported that instead of the 100,000 workers promised for coal mining, a total of not exceeding 12,000 men has arrived. For the iron-producing industry a deficit of 45,000 workers is reported.

The question of securing the labor supply is to be clarified with Gauleiter Sauckel, between now and the next meeting.

12. Expansion of electric steel production is only possible with experienced labor. Therefore, 5,000 specialists are to be declared key personnel. Field Marshal Milch has promised to discuss the matter with General Fromm.

13. Two hundred French prisoners of war who have their home in that part of the country are to be made available for lime production on the Maas. The Reich Association Iron business manager, Dr. Langen, will take steps to speed up allocation.

Signed: DR. ING. GOERNER

Distribution:

Reich Minister Speer
Field Marshal Milch
State Secretary Koerner
Kommerzienrat Roechling
Dr. Ing. Rohland
von Bohlen und Halbach [Initials of Alfried von Bohlen und Halbach]
Dr. Langen
State Secretary Landfried
General Director Pleiger
General Director Dr. Voegler
Ministerialrat v. Normann
State Secretary Schulze-Fielitz
Dr. Schieber
Brigadier General Becht
Dr. Ing. Goerner
For the files (1 copy)
1 Enclosure

TRANSLATION OF DOCUMENT NIK-15501
PROSECUTION EXHIBIT 1573

LETTER FROM DEFENDANT LEHMANN TO DEFENDANT IHN, 21 JULY 1942, CONCERNING ASSIGNMENT OF RUSSIAN PRISONERS OF WAR AND NOTING LEHMANN'S FORTHCOMING TRIP TO PARIS FOR "NEGOTIATIONS CONCERNING GROUP RECRUITMENT" OF FRENCH WORKERS

Dr. H. Lehmann

21 July 1942
Dr. Lehm./P.

To Director Max Ihn,
Baden-Baden
Holland Hotel,
Sophienstrasse 14
Dear Mr. Ihn,

Not until today have I been able to report to you about the matter we discussed. After I had submitted the proposition of

the DAF [German Labor Front] to Mr. Loeser on 14 of this month and we had discussed the matter in detail, another conference took place the next day, Wednesday 15 of this month. Besides Mr. Goerens and Mr. Loeser, Mr. Girod, von Buelow, Lauffer and I myself attended. Mr. Loeser was in favor of my phoning Gauobmann Kasper right away so that we could discuss the case with him. Mr. Bird today gave me a report of the conference made by Mr. Loeser which is very comprehensive, so that I need not go into details. That means everything remains as it is. I think this will be best as in this way the responsibility for fields outside our sphere of jurisdiction will remain in the hands of the participants themselves.

I shall go to Bocholt tomorrow and on Thursday to the Senne camp, in order to try to eliminate the difficulties which arose in connection with the assignment of Russian prisoners of war. Lately hardly anything but unskilled workers have been allocated, precisely when we are particularly in need of skilled labor.

I shall be in Paris on Monday, Tuesday, and Wednesday of next week in order to take part in the negotiations concerning group recruitments.

Mr. Franke, who left for Breslau last night, will resume work next Saturday. That means somebody will be here in my absence next week who can accept special requests if the occasion arises.

Ever since my return from Baden-Baden we have had very bad weather. Today too, it is raining hard, but to judge by the sky it might clear up later. We have had a number of alarms day and night in Essen (but no bombs were dropped). There were a great number of casualties—approximately 40–50 dead—during a day raid on Duisburg. As usual I am in haste and should like to send this off. I hope you will enjoy your cure in good weather.

With kind regards, also to your wife, I am, yours always,

[Stamp] signed: LEHMANN

Enclosure

TRANSLATION OF IHN DOCUMENT 816
DEFENSE EXHIBIT 271

LETTER FROM THE OFFICE OF REICH MINISTER FOR ARMAMENT AND MUNITIONS TO KRUPP'S SILESIAN CONSTRUCTION FIRM, 15 JULY 1942, ENCLOSING SAUR'S FILE NOTE ON THE DECISION OF HITLER AND SPEER TO PROCEED WITH CONSTRUCTION OF KRUPP'S MARKSTAEDT PLANT

Incoming
AKS No. 54527, received 22 July 1942

File: 11 S 12, 11 S 12 a
Copy to 1.AB
2.Pf.

Attention: Mueller, Eberhardt, Reiff.

Armament Development Division of the Reich Minister for Armament and Munition
Branch Office Berlin
1 Rue Ma.

Berlin W 35, 15 July 1942
Potsdamer Strasse 188/190

Personal

To: Friedrich Krupp, Schlesische Werksbau G.m.b.H.
Attention: Director Rosenbaum
Essen
Am Westbahnhof
Subject: S works.

With reference to our telephone conversation I send you *enclosed* a copy of the *file memo dated 4 July 1942* and ask you to take notice of it.

Signed signature

Enclosure to AKS No. 54527 from 22 July 1942
260/S/Fl.

Copy

Berlin, 4 July 1942

To: Dr. Mueller

Personal

Colonel Leyers
Director Purucker
Director Tix
Dipl. Ing. Desch
Dr. Fraenk
Ministerialdirektor Schoenleben
Gauamtsleiter Rienaecker

903432—51——46

The *Reich Minister Speer* inquired yesterday on the ground of Mr. Desch's memo from 29 June 1942 about the result of our shutting-down action. I reported to him briefly and informed him on this occasion again about our agreement that the factory Markstaedt can be shut down. Mr. Speer has now *decided definitely that in spite of that this construction has to proceed* since it is an explicit wish of the Fuehrer to have an emergency plant in the East. *The construction therefore has to be arranged in such a manner that a reorganization of the production within the limits of the program flak 8.8, 10.5, 12.8 cm. would be possible at any time.* A quota of only 2–3,000 tons of iron has to be kept ready according to an agreement with Krupp. The remaining iron has to be cleared from the existing construction material of the Krupp firm according to their promise. Now, of course, the construction has to be completed with all speed in order to get this emergency plant as soon as possible.

Signed: SAUR

TRANSLATION OF DOCUMENT D–348
PROSECUTION EXHIBIT 991

FILE NOTE BY REIFF ON HIS CONFERENCE OF 14 AUGUST 1942 WITH LIEUTENANT COLONEL KERSBERG, CONCERNING METHODS OF OBTAINING BETTER QUALIFIED RUSSIAN WORKERS FOR KRUPP

Rff/Schi.
[Reiff/Schild]
Artillery Construction H No. 81509g

18 August 1942

Document: 457 x2, 10 S 3, [Stamp] Action taken care of
Handled by: Reiff
Copies to: Pf, Mu, Da, Rff, Koe, KMT, B, AKH, Ihn, Girod, Ebh.*
Secret! 14 August 1942

[Stamp] SECRET

Memorandum by Mr. Reiff on the meeting in Berlin on 14 August 1942.

Present were—

from Wa J Rue WuG 2/Ia—Lieutenant Colonel Kersberg
from Fried. Krupp—Reiff

* Krupp's distribution code has been referred to earlier. Here the letter designations indicate that copies went to the following persons among others: the defendant Pfirsch (Pf); the defendant Mueller (Mue); Daur (Da); Reiff (Rff); Koettgen (Koe); the defendant Ihn; and the defendant Eberhardt (Ebh).

Subject: Labor allocation

At the conference on the preliminary work on antitank barrels, we also spoke about the lack of workers.

I asked K. [Kersberg] whether he could do something for us, and pointed out that in my opinion, our situation is more unfavorable than in other works, because we have fewer possibilities to help ourselves by internal equalization. Other works, for instance, have serial and mass production, out of which they can still draw people, and in which they can employ inferior Russian workers. On the other hand we have to accomplish special and quality tasks exclusively.

Apart from that I am under the impression that the better Russian workers would be at this time chosen for the works in central and eastern Germany. We really get the bad remainders only. Just now 600 Russians, consisting of 450 women and 150 juveniles, 14 years of age, arrived.

In my opinion it is unavoidably necessary, that those works which could employ comparatively useful Russians in mass production, should give them up slowly and exchange them for more inferior ones, so that better workers can be released for tasks requiring them.

I would be grateful, if the official ordnance office would start taking action on their own, which would appear much more objective and more neutral than if we undertook such a course. K. understood my ideas at once, and stated that he had considered the matter on similar lines.

This question appeared to him as especially important, as further drafting of German workers could be counted on, and as substitute Russian workers were to be employed exclusively. It is even intended to make foremen and part of the guard personnel of qualified Russian workers.

K. asked me to send him a letter with the above-mentioned ideas, which he can use as a proposal at the Ministry of Munitions and other authorities.

T.25.8 Signed: REIFF

PARTIAL TRANSLATION OF DOCUMENT NI-2868
PROSECUTION EXHIBIT 1178

APPROVAL BY KRUPP DIREKTORIUM, 31 OCTOBER 1942, OF AN APPLICATION FOR TWO MILLION MARKS FOR CONSTRUCTION OF AN AUTOMATIC GUN FACTORY AT AUSCHWITZ, NOTING THAT THE CONCENTRATION CAMP AT AUSCHWITZ WILL PROVIDE THE NECESSARY LABOR

[Illegible initials]

24 October 1942

Application for grant of RM 2,000,000 for the establishment of a factory for parts of automatic weapons (Auschwitz).

Cast Steel Works, 9 September 1942
[Stamp]
Main Administration
15 September 1942 X 07985
Replied: File
[Signed] ROSENBAUM

[Stamp]

Mr. Goerens	[Initialed]	6 October	G
Mr. A. von Bohlen	[Initialed]	2 October	AvB
Mr. Loeser	[Initialed]	2 October	L
Mr. Schroeder	[Initialed]	2 October	Sch

First of all Mr. Girod, Fried. Krupp
Aktiengesellschaft
Essen

[Initial] B 15 September
[Bird]

[Illegible initial] 17 September, see appendix

[Handwritten marginal note, partly illegible] The workers needed are to be supplied by war production department. 17 October.

Appendices: 1 Estimate

[Signed] A. v. BOHLEN [Initials] LOES [LOESER]
[Signed] GOERENS

The automatic weapons, developed by artillery construction, were a complete success. However, we could not carry out mass production of the 3.7 cm. weapon, developed by us, as we were unable to make either space, equipment or manpower available in the Cast Steel Works or elsewhere. For this reason the armed forces entrusted the firm of Duerkopp, Bielefeld, with the mass production, as this firm has the necessary facilities and has already had experience in the manufacture of automatic weapons. In order to take part in the manufacture of these automatic

weapons, and to be able to gain practical experience, we accepted the armed forces order for the manufacture of all supply and spare parts (in our case 30 to 60 percent of the current output). We aim in this way at being able at some future date to take over the manufacture of the complete 3.7 cm. automatic weapon, as automatic weapons are the weapons of the future, and experience regarding the construction and manufacture of this caliber will be of importance for the development of automatic weapons of a bigger caliber. In order to insure completion of the aforementioned contract, the Army High Command demanded that a factory should be erected in Auschwitz (Government General), the necessary workshop buildings are to be made available by the Waffen SS and leased to us. We are to procure the machines and installations; the management will be in our hands. *The concentration camp at Auschwitz will place the required manpower at our disposal.*

As it is intended to start manufacture about the spring of 1943, the necessary machines must be secured as soon as possible. The attached estimate showing a total of RM 1,422,700, lists these machines which are absolutely necessary for carrying out the manufacture as planned.

This estimate does not include machines for the manufacture and maintenance of tools and appliances, so-called auxiliary machines and hardening furnaces. When the whole matter has been sorted out we shall submit shortly a supplementary estimate dealing with the costs incurred for additional machines, which will include the rest of the factory installations and other costs. Our preliminary estimate for the afore-mentioned additional requirements is RM 500,000 to 600,000, so that for the present the entire plan can be estimated at the round sum of RM 2,000,000. We beg that this amount for the establishment of the factory at Auschwitz be approved.

[Signed] EBERHARDT
BOEMINGHAUS

Resolution No. 854

[Stamp]

Approved. Cast Steel Works Essen, 31 October 1942.

Fried. Krupp A.G.
The Direktorium
[Signed] LOESER
GOERENS

[Stamp]
[Illegible Initials] Filing Office
3 November 1942
A. No. [Illegible Initials]

[Handwritten distribution list]

1. Auditing Office
2. Mr. Eberhardt [Initialed] E
3. Mr. Boeminghaus [Initialed]
   15 November Bghs
4. Mr. Girod [Initialed] 13 November 1942 G
5. Mr. Kraus [Initialed] 13 November Kr.
6. Technical Office [Initialed]
   16 November, Ho, K.
   [Initialed] 17 November, S.
   [Initialed] 18 November, G.
7. War Production Department, Boehmer, [Initialed] 2 November, Boe, K
8. Main Administrative Office for filing

[Stamp]
9 November 1942
Doc. No. 97
[Illegible Initials]
16 November

* * * * * * *

Administrative Office, 29 September 1942
Kr/Bl.

To: Mr. Bird [Initialed] B 30 September

Subject: Factory for parts of automatic weapons (Auschwitz).

Reference: Proposal for a credit of RM 2,000,000, dated 9 September 1942.

With reference to the manpower required, a further discussion took place with *Mr. Greuner* and *Mr. Gueting,* Mb.15. Their opinion is as follows:

"The situation regarding the manufacture in Auschwitz has not yet been entirely clarified as some of the manufacturing papers, and drawings, and figures, are still missing. The firm of Duerkopp calculated in its preliminary machine lists that the manpower requirements would be approximately *550–600* men, who would all be supplied to us by the *concentration camp.*

"It is intended that only a small skeleton staff of 50–60 men is to come from the firm of Fried. Krupp, to work as foremen,

fitters, first foremen, chief clerks, etc., in order to train and supervise the inmates. A part of this skeleton group of men will be able to return later to Fried. Krupp, after inmates have been trained as fitters or foremen, and when they can be employed successfully."

As already mentioned in the letter of 24 September 1942, the urgent demands of the works for manpower cannot be met at the present time. For this reason it seems to be a very risky measure to take 50–60 employees from the Cast Steel Works.

[Signed] KRAUS

TRANSLATION OF DOCUMENT NIK–5860
PROSECUTION EXHIBIT 936

TELETYPE FROM DEFENDANT IHN TO THE MINISTRY OF LABOR, 18 SEPTEMBER 1942, DECLARING THAT KRUPP IS PREPARED TO EMPLOY OVER ONE THOUSAND SKILLED JEWISH WORKERS

Copy

Teletype message No. 727 of 18 September 1942 to the Reich Ministry of Labor, Plenipotentiary General for Labor Allocation.

Berlin W 8
Mohrenstr. 65

For Landrat Berk

Subject: Employment of Jews

Instead of making a report to the individual labor committees, we request you to note that the Krupp firm is prepared to employ 1050–1100 Jewish workers on the condition that really skilled workers are in question, who have worked for some years at machines which are generally standard in machine construction.

The number is divided into the following occupational groups:

258 turners
242 mechanics
150 milling-machine operators
25 drilling-press operators, or horizontal-drill operators
25 automatic-lathe operators
28 revolving-lathe operators
30 circular grinders
60 masons
60 carpenters
60 cabinet makers
60 glaziers
60 painters

20 pavers
20 street and road construction workers
7 planers

1100 Total

It is desirable for the people to be examined with regard to their abilities before they are assigned.

Friedrich Krupp A.G.

Signed: IHN

[Handwritten note]

TRANSLATION OF DOCUMENT NIK-5858
PROSECUTION EXHIBIT 934

TELETYPE FROM THE MAIN COMMITTEE AMMUNITION TO DEFENDANT MUELLER, 17 SEPTEMBER 1942, REQUESTING KRUPP'S REPLY AS TO PLANTS WHICH CAN BE STAFFED WITH AVAILABLE FOREIGN JEWS

[Stamp crossed out]

Artillery Construction
18 October 1942 Nr. 55956
Answered:

[Stamp]

Artillery Construction
17 October 1942 No. 55957
Answered: 18 September 1942

[Stamp]

Incoming Teletype-Message
Date: 17 September 1942
Time: 9:48

Krupp Essen
Director Mueller*
Cast Steel
Berlin

17 September 1942
No. 508

The Main Committee Ammunition demands a report today for forwarding to higher authorities, as to what plants can be staffed with Jews. Foreign Jews with numerous skilled workers among them are available in sufficient numbers. At the same time it must be stated where concentration camps for billeting the Jews can be built.

Reply requested by 16 hours through same channel.

Special Committee, Scheuer

* The distribution references at the end of this document indicate that three other defendants received copies—Eberhardt (Ebh), Korschan, and Lehmann.

File: 10S3

To be dealt with by: Koettgen

Copies to: Mue, Ebh, Da, B, Rff, Koe, KMT, Korschan, Leipert, Ihn, Girod, Lehmann, ZK, AKS.

17 September 1942

PARTIAL TRANSLATION OF DOCUMENT D-196 PROSECUTION EXHIBIT 888

EXTRACTS OF MEMORANDUM FROM DEFENDANT LEHMANN TO DEFENDANTS KRUPP, LOESER, IHN, AND OTHERS, 21 DECEMBER 1942, REPORTING ON LEHMANN'S JOURNEY TO PARIS TO DIRECT RECRUITMENT MEASURES FOR KRUPP IN THE FORTHCOMING GENERAL "LEVY" OF 265,000 FRENCH WORKERS, AND MEMORANDUM WRITTEN BY LEHMANN ON EARLIER GROUP RECRUITING OF FRENCH WORKERS

[Stamp]

Central Office No. 209

Arrived: 29 December 1942

Answered:

Labor Allocation A, 21 December 1942

[Stamp]

File Z.K. 22

Copies to: [Handwritten initials and date]

1. Mue
2. Cl 29 December
3. ZK

Memorandum

Subject: Recruiting of French workers

1. *General points and discussion with Oberregierungsrat Dr. Servatius of the Regional Labor Office Rhineland at Cologne.*

During the first months of the coming year a new levy of workers is to take place in France. In the course of this levy about 265,000 men are to be newly recruited from within occupied France. This operation is scheduled to start within the first days of the month of January.

According to a previous decree of the Plenipotentiary General for Labor Allocation in Berlin, requests by firms are not to be acted upon any more, but the recruiting is to take place exclusively for the regional labor offices which, for their part, will undertake the distribution of the allotted workers to the individual firms.

In view of the importance, I went on 13 December 1942 with Oberregierungsrat Dr. Servatius of the Regional Labor Office Rhineland to Paris in order to direct at the proper places in Paris the steps necessary for this new operation.

It was discovered that meanwhile a new decree had come from Berlin according to which recruiting by firms had again been planned for the larger firms.

I introduced Dr. Servatius to Mr. Hennig* in Paris, because Mr. Hennig is in charge of labor recruiting in the whole of France for the Cast Steel Works, and has the best connections with all German and French departments.

In the presence of Mr. Servatius, it was decided in the office of Regierungsrat Bach of the economic staff of the military governor of France, that our requests up to the present were to be considered void, and that we have to formulate immediately new requests. These requests will then be taken care of within the quota that is available for us at the Regional Labor Office Rhineland. It was decided that, as far as possible, transfers of complete shifts of workers requisitioned from French factories were to be sent to us in Essen. With our aid our requests were then distributed properly to the various district commanders and area commands. As far as possible the selection of the drafted individuals is then also to be undertaken with the help of one of our representatives.

* * * * * * *

In the beginning of January, Mr. Hennig will also try immediately to start on their way to Essen the 210 skilled workers allotted to us from the locomotive factory Fougat, Beziers. On our part we shall try to arrange that these workers will not be considered as part of our January quota, since they have been promised to us for some time.

4. *Accommodation of French workers*—All authorities concerned in Paris and in the rest of France repeatedly stressed the very great importance of good accommodation for French workers. Letters in which the French workers complain about bad accommodation, treatment, food, and shortage of labor in the factories are very harmful to the German recruiting program and are used by the opposition as welcome propaganda. Factories against which such complaints are made may be excluded from future allotments of workers.

Unfortunately such complaints have also been received concerning Krupp. Documentary proof will be produced. Immediately everything possible must be done to refute these complaints, and

* See excerpts from the testimony of defense witness Max Hennig, reproduced later in section VIII B 4.

to insure that no justified grounds for complaints exist in the future.

[Signed] LEHMANN

Distribution:

Messrs Loeser, Goerens, A. von Bohlen, Lorenz, Winters, Poethe, E. Mueller, Ihn, Beusch, Girod.

Labor Allocation Office A, 23 September 1942
Dr. Lehmann/Ka.

Memorandum

Subject: Conference with the chairman of the Association of Mechanical Industries [Comité Général des Industries Mécaniques], Mr. Garnier, concerning recruiting of French workers

The wording of a contract draft necessary for the group recruiting of French workers has been agreed on with Mr. Garnier, 16 September 1942, and it may now be put into print. It was agreed to furnish, to begin with, about 30 voluntary workers for the Cast Steel Works by 30 September 1942.

Mr. Garnier asked to talk to me about some basic questions, and this he did on 30 September 1942. Besides Mr. Garnier and the undersigned, the following gentlemen took part in the discussions:

Ledoux, director of the firm Pompes Ledoux, Bordeaux
Leveque, secretary of the Association of Mechanical Industries
Mueller, Fried. Krupp A.G.
Schweppenhaeuser, Fried. Krupp A.G.

The following points were discussed:

1. Mr. Garnier pointed out, that imprisoned French officers who were engineers in their civilian occupation, may be put to work as group leaders [Gruppenleiter]. I agreed with Mr. Garnier to refer this matter to the Plenipotentiary General for Labor Allocation, Gauleiter Sauckel, and requested that the French should also make this proposal to the competent German authorities through the Association of Mechanical Industries. Mr. Garnier expressly remarked, that in case of allocation of French officers, the dependability of these Frenchmen would be guaranteed by French industry.

2. As to the wage-scale classification, the French want trade experience and output to be considered, and German speaking engineers to be better paid.

3. In the opinion of Mr. Garnier, there are less available workers in the occupied zone of France than in the unoccupied zone.

4. Included into the contract is the remark, that supplemental social allowances (wives', children's and separation pay allocations) must be paid by the Krupp firm into a bank account in France later on to be designated.

5. In the opinion of Mr. Garnier, the law for compulsory labor service issued by the French Government on 4 September 1942 will speed up our mass recruiting considerably and increase the number of workers furnished. Mr. Garnier counts on about 10,000 workers from Paris mechanical plants, at a recruitment rate of 5 percent for compulsory labor. He regretted that he could not give any information concerning manpower to be expected from the other French districts.

6. Mr. Garnier said that the pipes were ready for operation, only the water was lacking. He wanted to express thereby the fact that the preliminary work done by the Cast Steel Works as well as by the French was completed. The real recruiting, therefore, could begin.

It remains to be seen, in my opinion, to what extent some real success could be made with the attempted group recruiting, as Gauleiter Sauckel has demanded of the French Government that, by 15 October 1942, 150,000 French skilled laborers and 100,000 unskilled laborers must be moved into Germany.

[Signed] LEHMANN

Distribution:

Mr. Goerens
Mr. Loeser
Mr. A. v. Bohlen
Mr. E. Mueller
Mr. Ihn
Mr. Girod
Worker's Relations Office,
Personnel Department

TRANSLATION OF IHN DOCUMENT 828
DEFENSE EXHIBIT 272

TELETYPE FROM KRUPP'S BERLIN OFFICE TO KRUPP'S OFFICE AT ESSEN, 8 FEBRUARY 1943, REPORTING HITLER'S ORDER THAT CONSTRUCTION AT MARKSTAEDT BE INCREASED

[Stamp]

[Illegible signatures]

Incoming

Krupp Essen

Krupp Essen Teletype No. 127

Main Office Berlin, branch office of the Technical Office

To be forwarded immediately to Mr. Ewald—

8 February 1943

1. The Fuehrer has ordered that 2 additional workshops be constructed in Markstaedt.

2. Because of air raid damage, the immediate increase of construction speed is necessary unconditionally. We have to start operations in the workshops 3, 4 and 5 as soon as possible. Please take people from other contractors and bring up the program to at least double speed. I expect your positive answer, when we will be able to move completely into workshops, 3, 4 and 5.

Rosenbaum.

Krupp Essen 1028 hrs sch.

Teletype

PARTIAL TRANSLATION OF DOCUMENT NIK-6705
PROSECUTION EXHIBIT 951

EXTRACT OF CIRCULAR FROM DEFENDANT IHN TO KRUPP PLANTS, 12 FEBRUARY 1943, ANNOUNCING COMPULSORY CONTINUED EMPLOYMENT OF CERTAIN FOREIGN WORKERS WHO FAIL TO VOLUNTEER FOR FURTHER EMPLOYMENT AFTER EXPIRATION OF CONTRACT, AND NOTING THAT "EASTERN WORKERS AND POLES ARE SUBJECT TO INDEFINITE SERVICE"

Main Administration Nr. A 43

Cast Steel Works, 12 February 1943
Labor Allocation A
Sd/Voe

To all plants

Subject: 1. Renewal of the contract or compulsory labor service of foreign workers
2. Clothing allowance

1. The Plenipotentiary General for Labor Allocation has pointed out again that foreigners whose contracts are expiring are to remain employed. If they do not volunteer for further employment they will be conscripted for work by the labor office. However, an effort must be made to achieve our purpose in an amicable way.

We request the plant managers to use their personal influence to have the foreigners concerned renew their contracts. If this cannot be done the worker in question has to be reported to the Labor Allocation Office with the following particulars: factory number, name, date of birth, nationality, kind of occupation, date of entry, length of contract, and local address.

Bulgarians, Danes, Italians, Croats, Rumanians, Slovaks, Spaniards, and Hungarians are released from service, as before, on the expiration of their contract. Eastern workers and Poles are subject to indefinite service. Voluntary extension of contract or conscription for labor will, therefore, chiefly affect Dutchmen, Belgians, and Frenchmen.

For special personal or social reasons, exceptions are permitted, particularly for workers from the Occupied Western Territories, but they should not exceed 5 percent of the contracts expiring each month. In such cases certificates by the home authorities are to be presented, which must be approved and certified by the proper German bureau. Such applications have to be submitted to the Labor Allocation Office with the same data mentioned above.

* * * * * * *

Fried-Krupp
Aktiengesellschaft
[Signed] IHN

TRANSLATION OF DOCUMENT NIK–6565
PROSECUTION EXHIBIT 1184

REPORT BY KRUPP'S MR. HOELKESKAMP ON A CONFERENCE WITH A REPRESENTATIVE OF THE SS ECONOMIC AND ADMINISTRATION MAIN OFFICE ON 16 MARCH 1943, CONCERNING THE USE OF JEWISH CONCENTRATION CAMP INMATES FOR KRUPP FUSE PRODUCTION AT AUSCHWITZ

[Stamp] Incoming

Reference: 11 S 7—382 x 2

Official concerned: Reiff

Copies to: Mueller, Eberhardt, Daur, Reiff, Koettgen, Krueger, Wilck, Fuse Plant, Home Price Control, Technical Office, Artillery Construction, B.

Berlin, 16 March 1943

[Stamp]

Received AKS, No. 58795 secret

17 March 1943

[Stamp] *Secret*

A. Krupp, Essen No. 18 (w)

Report of Mr. Hoelkeskamp on the conference on 16 March 1943 of Krupp representatives

Present: First Lieutenant Sommer, SS Reich Headquarters, SS Economic and Administrative Main Office,* Hoelkeskamp, Krupp

Subject: Transfer of fuse production to Auschwitz

SS First Lieutenant Sommer received the lists sent to me by Director Wieland, Special Committee m 3, of Jews who have been employed by the firms Krone-Presswerk and Graetz (about 500 workers), who are to be transferred to Auschwitz for the purpose of employment in the proposed production of fuses.

About 14 days ago all Jews were transported from Berlin, and according to the statements of the SS they are for the most part already in the Auschwitz camp. First Lieutenant Sommer again pointed out that when establishing a fuse manufacturing plant in Auschwitz, we could count on the full support of the SS, and he requested immediate action in case any assistance from his office should become necessary.

R–Office [Armament Branch Office Berlin] Hoelkeskamp

[Handwritten] OKH 77886 of 17 March 1943

* The chief of this SS office, SS General Oswald Pohl, and 17 other officials in this office, were indicted in the case of United States *vs.* Oswald Pohl, et al., Case 4, Vol. V, this series. The SS Economic and Administrative Office is also referred to as SS Economic and Administration Office.

PARTIAL TRANSLATION OF DOCUMENT NI-3754
PROSECUTION EXHIBIT 1187

EXTRACTS FROM MEMORANDA MARCH–APRIL 1943, FOUND IN KRUPP FILES CONCERNED WITH THE TRANSFER OF FUSE PRODUCTION TO AUSCHWITZ

1. File note of Hoelkeskamp,* 16 March 1943

[Stamp] Incoming

21x

File: 11 s 7–382–2x

Official concerned: Reiff

Copies to: 1. Alfried von Bohlen, Mueller, Eberhardt, Reiff, Daur, Koettgen, War Material Transport, Quota Fixing Department, Home Price Control Office, Rudolph,

2. Pfirsch, Krueger, Wilck, Fuse Workshop,
(1) Korschan
(2) Senff

Technical Office, B, Girod, Artillery Construction, S., Artillery Construction, H.

Berlin, 16 March 1943

Artillery Construction, Essen No. 17 (w) [Stamp] Secret!

Notes by Mr. Hoelkeskamp on a conference at the Ordnance Inspectorate for Armament and Munitions 2/5 on 16 March 1943.

[Stamp]
Artillery Construction S.
17 March 1943 58796 Secret

Present were—
Lieutenant Colonel von Wedel
Oberinspektor Bergemann
Dieker, employee
Hoelkeskamp

Subject: Transfer of fuse production to Auschwitz.

Lieutenant Colonel von Wedel, Munitions 2/5, had requested my visit. He informed me that the current orders for fuses in Essen were to be withdrawn. The office wants the skilled workers and the plant management hitherto engaged in fuse production at Essen to be transferred to Auschwitz. The orders given below have already been made out for the new production plants at Auschwitz.

* Hoelkeskamp, an official of Krupp's Artillery Construction Department, often acted as Krupp's liaison representative in dealing with such government authorities as the High Command of the Army and the Speer Ministry.

1. AZ [Aufschlagzuender—percussion fuses] [type] 23 pr. [presstoff—plastic] 200,000 per month, to be increased later to 400,000. Order No. SS Munitions 2/5 b 552–1–5077/42 h.

2. AZ [type] 1—100,000 per month.
Order No. SS Munitions 2/5 b 552–1–0074/42 h.

The written orders will be sent to us shortly. Lieutenant Colonel von Wedel pointed out that this measure of dividing the production was decided upon in agreement with Colonel Zimmermann and Director Wieland of the Main Committee [Hauptausschuss]. The preliminary order [Einrichtungsauftrag] for percussion fuses [type] 23 will be given by Chef Ing. 3/hz [chief engineer, section 3—howitzer fuses], for percussion fuses [type] 1 by Chef Ing. 7 [chief engineer, section 7]. Lieutenant Colonel von Wedel requested that I should next apply to Oberbaurat Dr. Stolz, chief engineer of section 3—howitzer fuses, with regard to obtaining the preliminary order.

* * * * * * *

R—Office Hoelkeskamp

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2. File note of Ordnance Inspectorate for Armament and Munitions, 18 March, 1943

Incoming

File: 11 S 7, 382 x 2

Artillery Construction S
No. 58821 secret
Received 22 March 1943
Official concerned: Koettgen

Copies to: Koettgen, Fuse Workshop, Artillery Construction S
Ordnance Inspectorate for
Armament and Munitions
(Mun 2/V)

Berlin W 35, 18 March 1943
[Stamp] *Secret!*

[Handwritten] Secret

Notes on the conference at the High Command of the Army, Ordnance Inspectorate for Armament and Munitions (Mun 2/V) on 18 March 1943.

Present were—

Lieutenant Colonel Dr. von Wedel, Ordnance Inspectorate for Armament and Munitions (Mun 2/V)

Captain Hartfuss, Ordnance Inspectorate for Armament and Munitions (2/Vb2)

903432—51——47

Dieker, employee, Ordnance Inspectorate for Armament and Munitions (2/Vb2)
Dipl. Ing. Remmler, Ordnance Inspectorate for Armament and Munitions 2/Vc
Pehlgrimm, Ordnance Chief Engineer 3/Hz (Vc)
Schroeter, Special Committee M III
Hoelkeskamp, Fried. Krupp, Essen

Krupp, Auschwitz production plant—receives through Munitions 2/VI [of Ordnance Inspectorate] an additional order for 200,000 percussion fuses 23/28, so that Auschwitz will have the following fuse orders:

200,000 percussion fuses [type] 23, plastic–with possibility of plans for
200,000 more percussion fuses [type] 23, plastic
100,000 percussion fuses [type] 1
200,000 percussion fuses [type] 23/28

* * * * * * *

signed signature

Comment by Artillery Construction S

See also AKS No. 58814 secret, of 18 March 1943

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3. File note of Weinhold,* 5 April 1943
Enclosure to AKS No. 58888, secret
Received on 8 April 1943

Fuse Workshop, 5 April 1943
W/Sp

File Note

Subject: Percussion fuse [type] 23, percussion fuse [type] 1, and percussion fuse [type] 41

Reference: Conference with Armament Chief on 2 April 1943

* * * * * * *

I spoke to Lieutenant Colonel Trisl, Army Ordnance Acceptance, about the labor question and revision in Auschwitz. He explained to me that the Acceptance Office altogether and the combining plant more or less would be staffed by German workers only and he recommended that we should act accordingly in the beginning when we shall need only few workers. I pointed out that the main purpose of evacuating the plant to Auschwitz had been to employ the people there. Trisl recommended that when the time

* Weinhold, manager of the Krupp plant at Wuestegiersdorf, had been engaged in the preliminary work of setting up the fuse production at Auschwitz.

comes we submit an application, requesting that the relief granted in this respect to manufactures abroad will also be granted in Auschwitz. I assured him that we would of course do nothing for which we could not account in order not to influence the quality of our fuses.

I discussed the percussion fuses 41 with Mr. Bittin who acted as deputy for Lieutenant Colonel von Wedel who is ill. I explained the position and asked that the production be transferred somewhere else pointing out that the production was still being carried on by our subcontractors.

* * * * * * *

Signed: WEINHOLD

---

4. File Note of Weinhold of 26 March 1943

AKS No. 60726
Received 30 March 1943
Official concerned: ------

Files: 11 S 7
Copies to: Mue, Ebh, Rff, Koc, KMT, RU, AKS, AKH

Fuse Workshop, 26 March 1943
W/Sp

Technical Questions on the Fuse Production in Auschwitz

* * * * * * *

Mr. Wurzbacher* will procure the rest of the machines, in as far as they will have to be newly acquired (turret lathes, boring machines, thread-rolling machines, Heller-automaton).

The procurement of drawing presses [Ziehpressen] is still causing difficulties. We shall therefore arrange that our subcontractors, who until now have supplied us with the drawn parts, shall continue to do so, until we have our own presses at our disposal. The firm Silesia would be drawing the cartridge cases with threads. We shall immediately contact this firm.

In any case, our intention is to carry out the *complete* production in Auschwitz.

Plastic breach blocks and breach rings however, will be taken care of by Special Committee Plastics [Sonderring Presstoffe] as long as we have no machines of our own available.

Signed: WEINHOLD

---

* Chief Engineer Section 7/VIb of Ordnance Armament Inspectorate.

To be distributed to—
Mr. Senff,
Mr. Schupp
Technical Office 10
Technical Office 7, circulate in fuse workshop
KMT

PARTIAL TRANSLATION OF DOCUMENT NIK–4723 PROSECUTION EXHIBIT 1188

FILE NOTE OF WEINHOLD, 22 APRIL 1943, ON DISCUSSIONS WITH SS REPRESENTATIVES AT AUSCHWITZ CONCERNING FUSE PRODUCTION AT AUSCHWITZ

[Stamp] Nr:
3 May 1943
Replied:

Fuse workshop 22 April 1943
W/Sp.

[Stamp] AKS 4 May 1943 No. 61455
Action: Taken care of

File Notice

[Handwritten] of Mr. Weinhold
Subject: Fuse production at Auschwitz
Reference: Discussions and inspections on 20 April 1943

From the SS were present—

Obersturmbannfuehrer Hoess,* Commandant (part of the time)

Sturmbannfuehrer Bischoff, central building management (part of the time)

Jothann, industrial buildings (part of the time)

Swobota, electrical installations (part of the time)

Engelbrecht, food (part of the time)

From Krupp—

Velten, technical office 7 (part of the time)

Weinhold, Fuse Workshop

* Rudolf Hoess (not to be confused with Rudolf Hess, Hitler's deputy) was commander of the Auschwitz concentration camp from 1 May 1940 until 1 December 1943. The IMT in its judgment notes Hoess' testimony that during this period 2,500,000 persons were exterminated in Auschwitz and that a further 500,000 died from disease and starvation (Trial of the Major War Criminals, *op. cit., supra*, vol. I, p. 251). Hoess was later tried by a war crimes court in Poland and sentenced to death.

Purpose of the inspection was to examine the state of the work and if necessary to prepare necessary measures. The state on the construction is the following: The workshop room of the double shed I/II is practically finished. The annex with the washrooms is just being completed. The rail connection is already laid, the base for the rails is just being fixed. (It was found that here is an outdated plan of the camp. The next double shed which the SS wanted to start on is the *equally big* shed V west of I/II. I was handed the new plan, drawn on 8 January 1943, leaflet 1970 A).

Of the office building the ground floor is finished. In case there are any desires for alterations these can be taken into consideration on the upper floors. A relocation of the office building as lately considered with Mr. Schupp is now out of the question. As temporary office building there is a Bergemann barrack.

* * * * * * *

The central building management looked with great distrust upon the employment of German women necessary in the assembly and in the checking departments and upon the employment of female prisoners in many other suitable jobs. In order that no difficulties arise here we must secure for ourselves certain definite liberties by means of a contract. Also we must protect ourselves as far as the German Labor Front is concerned. Prisoners can be used as office personnel. The SS allegedly uses them with great success. The prisoners have rooms of their own. If anything at all is to come of the mass fuse manufacture at Auschwitz, very far-reaching measures are necessary. If we arrive too late with the planning of the building then the building firms will have left Auschwitz again; if the production starts too late, then the workers will have been taken meanwhile by other firms and by the German Equipment Works (SS). Especially the latter is of decisive importance; because up to now it was always supposed that the supply of workers in Auschwitz is unlimited as regards quality and quantity. It might therefore happen in case of a related start of production that the whole reason why we accepted the unusual difficulties which are present in Auschwitz, namely the free disposal over workers will no longer exist, because to say the least the best workers will no longer be available. The necessary specialists must be secured by contract.

The technical office must therefore, if necessary by postponing other important programs, give priority to work for the fuse workshop and for the installation and manufacture itself; not only the most suitable workers from the old fuse workshop must be brought to Auschwitz but also if necessary placed at our disposal elsewhere at least temporarily.

The High Command of the Army has shown its great confidence in the firm of Krupp by its decisions with respect to fuse manufacture. We must under no circumstances disappoint this trust.

[Signed] Weinhold

[Handwritten] 1 file note to be distributed, file 11 S 7

Official concerned: KMT [War Materials Dept.–Transportation]

Copies to: Mueller, Eberhardt, Reiff, Koettgen, KMT CL, Technical Office, AKS

1. Korschan
2. Senff

TRANSLATION OF DOCUMENT NIK–4724
PROSECUTION EXHIBIT 1191

LETTER FROM ECONOMIC AND ADMINISTRATIVE MAIN OFFICE OF THE SS TO DEFENDANT KORSCHAN, 28 MAY 1943, TRANSMITTING A DRAFT OF A LEASE CONTRACT FOR SS BUILDINGS AND EQUIPMENT AT AUSCHWITZ CONCENTRATION CAMP AND REQUESTING COUNTERPROPOSALS

The Reichfuehrer SS and Chief of the German Police, SS Economic and Administrative Main Office

[handwritten] enclosures—3 x, 1 x

The Chief of Office C III

Telephones—Local calls 765261
Long distance calls 765101

Berlin, 28 May 1943
Lichterfelde–West
Unter den Eichen 126–135

Dictation reference No. C/III/ZB/Auschwitz/Er/Sm
Must be indicated in the answer!

[Stamp]
Artillery Construction Departments
16 June 1943 No. 62510
Answered:

Subject: Production place Auschwitz

Reference: Discussion of SS Brigadefuehrer Dr. Kammler on 19 May 1943

Enclosures: Lease draft in duplicate

To: Director Dr. Korschan

Friedrich Krupp A.G.,
Essen
[Handwritten remark] first to Mr. Reiff-K.M. [War Material]

With reference to the discussion of SS Brigadefuehrer Dr. Kammler on 19 May 1943 enclosed draft of a lease is submitted, in the form as used at present here.

It is requested that the counterproposal be submitted, according to the promise received, to this office at least in duplicate so that the agreement negotiations can be taken up in a short time.

Chief of Office C III
Technical Special Fields
[Illegible signature]
SS Obersturmbannfuehrer

File No. 11 S 7
Official concerned: Ru.
Copies to be sent to: Rff, Ru, AKS
Distribution of enclosures: O–1x, Rff, O–18 Pu, 1 x 11 S7
[Official] seal of the Reich Leader SS and Chief of the German Police, SS Economic and Administrative Main Office, C/III
SS W.V. 207. 4000.42

Draft

Lease contract

62510 from 16 June

The German Reich, represented by the Reich Leader SS and Chief of the German Police, SS Economic and Administrative Main Office, Berlin-Lichterfelde-West, Unter den Eichen 126/135, as lessor
and
..... as lessee
agree upon the following lease contract:

Article 1

1. The lessor leaves the lots and fixtures situated on the site of the concentration camp _____ extent and position of which can be seen from the line enclosing part on the attached map, to the lessee for the construction and operation of a production plant for his production program. The management of the plant to be established in the rented area is solely up to the lessee.

2. The lessor binds himself to have the rented site as well as the buildings erected or to be erected thereupon completely ready for use at the disposal of the lessee in the following sections and at the following times.

section 1 by _____
section 2 by _____

If because of circumstances beyond control or wartime measures or events these time limits cannot be observed, delivery is delayed accordingly.

Article 2

1. The contract becomes effective with the signature. The lease contract begins to be effective, as far as the individual sections are concerned, with their delivery. It runs, to begin with, up to ------ and is extended as the case may be, for a subsequent year, if no notice is given 6 months before. Notice has to be given by means of a registered letter.

2. The lessee is entitled to give notice prematurely if the High Command of the Army cancels prematurely the contract existing between itself and the lessee concerning the production orders. In this case the same time limits are valid for the giving notice of these terms of the contract as those which are in force for the denouncing of the contract between the High Command of the Army and the lessee.

Article 3

1. The annual rent amounts to RM ------. It is to be paid in advance quarterly in part payments of RM ------.

2. The payment of rent begins with the beginning of use of the plants according to Article 1 paragraph 2.

Article 4

1. The real estate taxes according to the rates valid at the time of the conclusion of the contract are included in the rent.

2. Not included are the expenses for gas, water, and electricity; as far as these matters are concerned the lessee concludes special supply contracts with the proper supply works.

Not included are, furthermore, the expenses for chimney sweeping, garbage collection, street cleaning, heating, security measures, and insurance.

3. The maintenance of the outside of the buildings is the responsibility of the lessor, the maintenance of the inside, especially decorative repairs, maintenance of locks, floors, window panes are all the responsibility of the lessee.

4. As soon as the lessee notices any damages on the rented site, he must immediately notify the lessor.

5. The lessee is responsible to the lessor for those damages which after the taking over of the buildings and the site by his legal representative, have been caused through their own fault by his associates, his staff, or his visitors as well as by artisans or suppliers commissioned by him.

Article 5

At the conclusion of the contract the lessee is entitled to remove from the site all those machine installations which he had built in or brought to the lot as well as those objects which serve for the operation of the plant. The lessor waives all claims for compensation for damages on buildings or land which occurred either during enlarging or removal, as long as the damages were not caused through the lessee's fault.

Article 6

The entire correspondence concerning the lease is governed by the "Secrecy provisions for firms executing Wehrmacht contracts." The parties concerned bind themselves to keep the entire correspondence in safes and not to let it get out of the hand of the competent top officials.

Article 7

The Berlin district court is competent for all controversies arising from the terms of the contract irrespective of the value of the object in litigation. In case of legal action the contracting parties must file a motion so asking for exclusion of the public, for obligation on the part of those taking part in the suit to absolute secrecy and for careful safeguarding of the documents.

Article 8

Any alterations in the lease are to be made in writing.

Article 9

The lease is issued in duplicate, each party receiving one of the copies.

The lessor: _____ The lessee: _____

Berlin

PARTIAL TRANSLATION OF DOCUMENT NIK-7456
PROSECUTION EXHIBIT 1113

EXTRACTS FROM KRUPP FILE NOTE FOR DEFENDANT MUELLER, 21 JULY 1943, CONCERNING PROCUREMENT OF FOREIGN WORKERS AND CONCENTRATION CAMP INMATES FOR PRODUCTION OF LIGHT FIELD HOWITZERS AT KRUPP'S SILESIAN ("S") PLANT

Reiff/Schild 21 July 1943

File Note for Professor Dr. Mueller

Subject: Production of light field howitzers in the S – plant

* * * * * * *

4. *Labor*—According to information from the Labor Allocation Office there are 1,474 workers available for the construction of light machines. Only 825 of these are being used for light machinery construction. Part of this number has been made available for other tasks, including also the Machine Construction Shop No. 15, in Essen.

Taking into consideration an increase of 400 pieces of equipment in December and 600 in July, the plant reported its current labor requirement as 2,700 men, so that, at the moment, there is already a shortage of almost 2,000 workers. For January a requirement of 3,500 workers is reported. These labor requirements are, however, still to be checked. It appears certain that it will be possible to reduce them to some extent, but even these rough figures show already how important it is to procure the labor which we are now lacking.

In this connection, too, consolidation was undertaken in that Dr. Franke was appointed for this task.

The present labor procurement situation is as follows:

The Army Ordnance Office declined to make workers available for the production of light field howitzers. It can be expected with certainty that the Main Committee Arms will adopt the same attitude because no contingents are being assigned to the Main Committee Arms by the Armaments Office, or if an assignment is made it will be on a very limited scale only, in which case it must be made available first of all for programs which have a higher priority rating. We are nevertheless confident that it will be possible to procure workers for the production of light field howitzers, according to the following schedule:

a. The Regional Labor Office Silesia has promised 400 Czechs, or Laval Frenchmen, who should arrive shortly;

b. A concentration camp for 4,000 inmates is being constructed.

The completion of this camp and the procurement of the inmates should be speeded up particularly;

c. It would be conceivable to withdraw temporarily from the building sector—whose requirements are covered by a total of 4,000 workers—a smaller number of workers.

d. Workers from Essen.

* * * * * * *

TRANSLATION OF IHN DOCUMENT 643
DEFENSE EXHIBIT 241

EXTRACTS FROM A SPEECH GIVEN BY REICH MINISTER SPEER AT THE MEETING OF THE REICH CHAMBER OF LABOR AT BERLIN ON 29 JANUARY 1943*

In his New Year proclamation the Fuehrer has declared that in the year 1943 he expects and must demand from the German armament industry an extraordinary increase in output. * * *

The manpower required for the extension of our production must therefore be newly provided by the German people, and must pour into the factories in great quantities.

To attain this it is above all necessary that the *entire community* support the armament industry in every way, and that all productions which can still in any way be dispensed with are canceled and that our whole standard of living is adjusted further in keeping with the necessities of war than ever before.

The fulfillment of these requirements is a decisive factor in the further increase of production in the year 1943.

Therefore, every reserve of manpower still existing among the German people must now be drawn into our armament program so that the great production target for 1943 which the Fuehrer has fixed may actually be reached.

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* The entire document as reproduced in the defense document book is reproduced here. Document is made up of extracts taken from the Information Bulletin of the Reich Minister for Armament and Munitions, 1943, p. 207.

PARTIAL TRANSLATION OF DOCUMENT NIK-7457
PROSECUTION EXHIBIT 1116

EXTRACTS OF A LETTER FROM KRUPP'S BERTHA WORKS, COSIGNED BY REIFF AND DEFENDANT KORSCHAN, TO DEFENDANT KRUPP THROUGH DEFENDANT MUELLER, 31 AUGUST 1943, CONCERNING PLANNING FOR FURTHER CONSTRUCTION AND STAFFING

[Handwritten] *Urgent*

Breslau, 31 August 1943
Post Office Box

Fried. Krupp
Berthawerk
Aktiengesellschaft
The Directorate
[trademark]
DSK Ko/Bi

[Handwritten] First to be circulated among the following: Goe [Goerens] [Countersigned, initial] Jn [Janssen] [Countersigned, initial illegible] F. Mue [Fritz Mueller] 6 September, 8 September /397 Hou. [Houdremont —but—back to Hou.] Ihn [Initial] [2d initial illegible] back to A.B. [Alfried v. Bohlen]
[Handwritten] Discussion requested during Vorstand meeting.

Action taken

To the Chairman of the Vorstand of Fried. Krupp A.G., Dipl. Ing. A. v. Bohlen through Prof. Dr. Mueller

[Initials] MUE [Mueller]

Essen

* * * * * * *

All of these things, however, are indispensable prerequisites for the activation of a workshop and putting it into operation.

The reason why the installations for the huge workshops fall behind as compared with the completion of the building is explained by the fact, on the one hand, that the armaments expansion is progressing faster than the installations can be produced (in part, the building installations must be produced by armaments expansion itself) ; thus also considering, for instance, that it is impossible for the Krupp firm to procure the installations which it must provide itself; also on the one hand, there is the generally difficult situation (fourth year of the war) but, on the other hand, this is due to the utterly inadequate staffing of the technical office as borne out by the fact, that on the one hand, individual pieces of equipment were planned and ordered too late and that the necessary work is progressing too slowly; for instance, also the fact that insufficient personnel is on hand to push matters along and give a hand which, for the first reason,

(the fourth year of the war) is particularly necessary just now.

Also the falling behind in handling the expansion projects under the armaments development scheme could be prevented only through constant and intensive action taken by the T.B. [technical office].

By reason of the above remarks there arises of necessity, therefore, *as the first important fact* the need of supplying the T.B. with an entirely adequate working staff. A tentative survey has shown that at least 250 additional people must be made available for the T.B. and the construction office and, since it is not possible to assign them all at once, the procedure must be as follows: starting initially with 80 men; then 40 men to follow every fortnight.

These 250 people would then be sufficient to keep pace with the expansion schedule of Speer, the basic assumption being that after workshop No. 6 there will follow workshop No. 11, followed by workshop No. 21, running parallel with it workshop G (drop-forge); workshop No. 1 (centrifugal casting foundry), then the steel works and the other proposed plants for handling the initial stages of manufacture must be taken up.

As the *second serious problem* the labor question stands out—

The present level of personnel utilization at the Berthawerk is today—660 employees and approximately 3,300 laborers.

In addition there are approximately 4,000 workers utilized in the Berthawerk, by reason of the Speer armament expansion program.

The break-down of our workers is as follows:

778 Germans, 2,038 Czechs, and 479 Frenchmen.

A tentative listing of labor requirements for the production plants in the workshops Nos. 4, 5, 3, 6, 11 (armor construction), 21 (sheet metal pressing plant) workshop No. 6 (drop-forge) and workshop No. 1 (centrifugal foundry) shows a requirement for 13,000 laborers, in round figures. To this must also be added the pertinent auxiliary shops, whose labor requirements can be estimated as approximately 2,000 workers; in other words a total of 15,000 men. To this should, furthermore, be added workers for the handling of camp and feeding requirements, as well as for all general facilities of the plant, e. g., security system, fire brigade, etc., who, adapted to the scope of the respective requirements would entail approximately 1,000 men in each case. To this we should moreover add the people whom we, on our part, must furnish for the erection of the buildings, etc., namely approximately 500 men; also the labor which the Speer armament development program has at present at its disposition, amounting to approximately 4,000 men, assuming that they will be maintained approximately on that same level. There results then the total

figure of approximately 20,000 men including approximately 2,500 employees.

Of the total of 20,000 workers approximately 6,400 men are quartered in camps; an approximate total of 900 men are living in their own apartments in Breslau or in the vicinity of the works so that there is still a balance of 13,000 men, in round figures, to be quartered.

These 13,000 men must be available here according to the following schedule:

in the 4th quarter of 1943	4,500 men
in the 1st quarter of 1944 an additional	3,500 men
in the 2d quarter of 1944 an additional	3,000 men
in the 3d quarter of 1944 an additional	1,500 men
in the 4th quarter of 1944 an additional	500 men
	13,000 men

The most important question on which clarity must at all events be obtained at once is where these workers are to come from.

Investigations so far made with a view to bringing in labor have shown that, at best, the following possibilities exist today:

1. Krupp.
   a. cast-steel plant.
   b. concern works.
2. Allocation by the Regional Labor Office, Lower Silesia.
3. Providing concentration camp inmates.

As a result of the relocation of manufacturing a certain portion of the workers will, in any case, come from Essen. This share is estimated to be approximately 5,000 men. To this are added the specialized workers who, in all circumstances, must be made available for starting the first production run on light field howitzers—calling for 1,800 men—, in addition 400 specialized workers for the auxiliary plants, which is a total of 7,200 men.

It must be pointed out here that the question must be clarified as to whether these 7,200 men who are to come from Essen, are ready to come here, which will depend upon whether older or younger, married or single laborers are involved, etc. If necessary the men who are willing to come here and live in camps could be made available through interchange with the concern works.

Negotiations in the very near future must determine whether the remaining 5,800 men can be allocated by the Regional Labor Office and by concentration camps. These negotiations, however, cannot be continued until the Vorstand at Essen has given its consent for carrying this program into effect and has agreed to take full responsibility for making employees available for the

installation and administration of the camps (quartering and feeding) and to make available those employees who are needed to carry out the production. In fact, it should be pointed out that in addition to the construction and equipping of appropriate camps for the workers, the provision of living quarters for the employees and members of their families, as well as for members of families of the workers (to facilitate their transfer to the Berthawerk), the quartering and feeding of a labor contingent of such magnitude in this district constitute the most important questions resulting therefrom and that in order to carry these tasks into effect an adequate staff of first-class employees of the executive level and lower ranks must be made available from the very outset which, according to our opinion, can come only from the Cast Steel Works or from the concern works.

Broadly speaking, the magnitude of the tasks to be solved is clearly and unmistakably evident from the speed with which the workers are to be brought up and the workshops are to be populated, and the programs to be brought under way. It goes without saying that this quite unusually rapid start of production can be carried through only with the help of a first-class and adequate staff of personnel of the executive level and those of a lower rank.

More particularly it should be pointed out that for quartering 13,000 laborers and 2,000 employees there are so far available merely 1,000 vacancies in barracks and O dwellings. In other words, beginning at once, it is necessary to procure a monthly average of approximately 1,500 vacancies in barracks and 500 dwellings (rooms), the latter for employees and dependents of laborers. (To these camps belong kitchens, hospitals, delousing establishments, laundries, beds, blankets, tableware, facilities for purchase and transportation of foodstuffs to the camp, sanitary facilities, etc.)

It should be pointed out that the staff for the T.B. which is required for ordering the installations and having them established, as well as the personnel required for fitting the camps with furnishings and for their administration—that is 60 men—must be made available *at once,* practically speaking, as of today. The fact that such staffs are lacking has already been found to be a very great disadvantage, as a result of which—as brought out in the introductory statements—the putting of workshops into operation remained far behind their erection.

In other words, basing calculations on the assumption that by the end of the year 4 huge workshops must be completely finished, with 3,500 men to work in each of them, this means that at the latest by the end of the year, a labor force of approximately 14,000 men will be required if the workshop space is to be fully utilized.

This again brings out distinctly the speeding ahead in armament construction, and the falling behind in providing the installations and barracks' vacancies and/or of bringing machinery and workers to the site. Furthermore, this points clearly to the danger inherent in the fact that, in the case of an inspection of the Berthawerk by officials of the ministries, they might notice that workshops were not being utilized and thus might conceive the idea of bringing outside firms into our workshops.

Resumé—

The speed of construction is considerably ahead of the speed with which the workshops are being equipped and put into operation. Already today 120,000 m^2 [square meters] have been roofed; between now and the end of the year at least an additional 40,000 m^2 will be in the same condition. The cause for this state of affairs is primarily the inadequate staffing of the T.B. which should, in any case, have an immediate increase in personnel of 250 men.

Furthermore, as of today there is a requirement of 1,500 men for machines ready for operation and for others which will be ready shortly.

For a 100 percent staffing of workshops already roofed, 8,000 men are needed.

To carry through programs presently existing, i.e., including sheet-metal pressing shops (that means not including steel works, armor plate rolling mill) 13,000 men are lacking.

For the quartering of these people—the smaller number as well as of the larger one—a personnel staff of 60 employees, is needed *at once*. We ask the Vorstand of the Krupp firm—

1. To decide which of the two projects is to be carried through.
2. To confirm that the required personnel of 250 employees for the T.B., 60 people for the barracks staff, will be made available *at once* and that, furthermore, 7,200 workers and 750 employees will be made available to handle production at the speed previously indicated.

[Signed] REIFF
KORSCHAN

TRANSLATION OF DOCUMENT NIK-11975
PROSECUTION EXHIBIT 1204

FILE NOTE OF REIFF, WITH COPIES TO DEFENDANTS EBERHARDT, KORSCHAN, AND MUELLER, 7 SEPTEMBER 1943, CONCERNING A TELEPHONE CONVERSATION WITH VON WEDEL OF THE ORDNANCE INSPECTORATE REGARDING THE POSSIBILITY OF KRUPP'S GIVING UP THE AUSCHWITZ PLANT

[Stamp]
Artillery Construction S
10 September 1943 No. 59341 secret
Answered:

Diary No. 28 secret of 7 September 1943
[Stamp] SECRET

Reiff/Schild
Telephone Conversation 6 September 1943
Call made by: Lieutenant Colonel von Wedel of the Ordnance Inspectorate for Armament and Munitions 2/V
Call received by: Reiff of the Bertha Works
Subject: Auschwitz

Von Wedel said that he must remove 400,000 percussion fuses 1 to Auschwitz (from Iwan). He was unable to say how much the percussion fuse 23 plastic project would suffer by this. But apparently the percussion fuse 1 is more important to him than the percussion fuse 23 plastic. He asks whether we want to take over percussion fuse 1. Machines, etc., could be supplied to us very quickly from another project.

If we did not intend to produce percussion fuse 1 ourselves, nothing remained but to give up Auschwitz, or to work together with the other firm which is to deal with percussion fuse 1.

I immediately discarded the thought of giving up Auschwitz; and reserved any further decision until I could think things over. I said I might telephone him on Tuesday, and come to Berlin on Wednesday.

[Handwritten] Signed: REIFF

Copies to:
Dr. Korschan
Mr. Reiff
Mr. Weinhold
Essen

File: 1187
Official concerned: Koettgen

903432—51——48

Copies to: Dr. Mueller, Eberhardt, Clausnizer, Koettgen, War Material Transport, Technical Office, Artillery Construction, S, Daur

Note—Artillery Construction S: see also, Artillery Construction S. File No. 59332, Secret, of 7 September 1943.

TRANSLATION OF DOCUMENT NI-2965
PROSECUTION EXHIBIT 1205

LETTER FROM DEFENDANT ALFRIED KRUPP TO LIEUTENANT COLONEL VON WEDEL, 7 SEPTEMBER 1943, DENYING KRUPP'S RESPONSIBILITY FOR THE DELAY IN STARTING FUSE PRODUCTION AT AUSCHWITZ

[Handwritten] AKS No. 59311

7 September 1943

[Stamps] *Registered, Secret*

[Initial] MUE [Mueller]

To Lieutenant Colonel Dr. von Wedel
Army High Command (Wa J Rue Mun 2)
[Waffenamt, Industrielle Ruestung,
Munition (Ordnance Office, Industrial
Armament, Ammunition)]
Fuse Supply Department
Berlin W 35
Tirpitzufer 40

Subject: Transfer of the production of fuses to Auschwitz

Dear Lieutenant Colonel,

From your letter of 26 ultimo I gathered that you are of the opinion that the firm of Krupp did not do its best to start the production of fuses at Auschwitz as soon as possible. I think there must be a misunderstanding, as the time of completion of the shop has been taken as a basis for the start of the production of fuses. In reality the facts are that the shop placed at our disposal through the Army High Command, had been intended for another manufacture, which was to be started in spring 1943. After the loss of our fuse production plant at Essen our representatives drew the attention of Colonel Zimmermann to the possibility of using this shop for the production of fuses.

At the decisive conference on 25 March 1943 the Wa. J. Rue. Mun., demanded that July should be aimed at as the time of starting this production at Auschwitz. Already at that time our representatives pointed out that the keeping of this time limit chiefly depended on how far the machines and presses would be

placed at our disposal, and on how quickly these installations would be repaired. Unfortunately the delivery of the machines did not go ahead at the speed demanded by the Wa. J. Rue. Mun., so that our representatives remonstrated repeatedly, for the last time in the middle of June, to Colonel Zimmermann in order to get his support and to ask that delivery of the missing installations be speeded up.

Thus the Army High Command already knew at the conference in June, that the time limit originally aimed at, viz, the end of July, could not be attained.

I beg to refer to the meeting in Berlin on the 1st instant, during which the atmosphere was certainly clarified. Now we hope to be able to start the delivery of fuses in October, and we shall try our best to reach the highest possible output before long.

We regret that the letter sent at the beginning of August of this year to Director Reiff was not answered in time. This was due to the difficulties at Essen on the one hand, and to the transfer of Mr. Reiff to Breslau on the other hand. I have told Mr. Reiff to pay special attention to the production at Auschwitz, for which he will have the best opportunity at Breslau. Some months ago already Mr. Reiff took advantage of the opportunity to visit Auschwitz and to discuss all the necessary points with our representatives there. With regard to the collaboration of our technical office in Breslau, I can only say that a very close cooperation exists between this office and Auschwitz, and is assured also for the future.

With kind regards and Heil Hitler,

Yours faithfully,
[Stamp] A. v. Bohlen

[Handwritten at bottom of first page of original]
1187, Eberhardt, Daur, Reiff, Koettgen, AKS, B, Korschan, Mueller

TRANSLATION OF DOCUMENT NIK-15402
PROSECUTION EXHIBIT 1574

LETTER FROM KRUPP TO THE EMPLOYMENT OFFICE, ESSEN, 18 SEPTEMBER 1943, CONCERNING CONSCRIPTION OF FRENCH, BELGIAN AND DUTCH WORKERS REFUSING TO RENEW 1-YEAR CONTRACTS

1. To be written: [Handwritten] settled
Employment Office
Essen

18 September 1943

Bfa. II 7783

Go/Me

Conscription of foreign workers of our Cast Steel Works

The 1-year contracts of a great number of our French, Belgian, and Dutch workers of the Cast Steel Works will expire within the next 2 months. Since these people are not prepared to renew their contracts we intend to have them conscripted. With reference to the conversation with your Mr. Dieckmann we ask you to consider how the necessary formalities may be best carried out. This applies to about 200 persons.

[Illegible Signature]

2. Resubmitted on

[Handwritten] The employment office has been informed by phone that the number is considerably higher.

[Initials] GR.

Gr. 21/9.

550

TRANSLATION OF DOCUMENT NIK-7269
PROSECUTION EXHIBIT 1118

MINUTES OF A CONFERENCE AT KRUPP'S BERTHA WORKS WITH SS REPRESENTATIVES IN ATTENDANCE, 21 SEPTEMBER 1943, COPIES TO DEFENDANTS HOUDREMONT, IHN, KORSCHAN, AND MUELLER, CONCERNING "STARTING PRODUCTION WITH CONCENTRATION CAMP INMATES"

Incoming

MD No. 2147 Rec'd 24 Sept 1943

Files: 25/3—25/4
Official concerned:
Copies to: Houdremont, E. Mueller, Ihn, Girod, Clausnizer, Winters, MD.
Reiff/Schild

[Initial] CL. [Clausnizer]
Bertha Works
21 September 1943
Diary No. 39

Minutes of the conference at the Bertha Works, Markstaedt, held on 21 September 1943.

The following were present:

SS Captain Gideon
SS Hauptscharfuehrer [Master Sergeant] Zimmermann
Dipl. Ing. Bartel
Bauleiter Stil
Ost
Wolf
Frinck
Reiff

Subject: Starting production with concentration camp inmates

1. *Camp—On 1 October 1943 the camp will be ready to take in 800 inmates.* They will be guarded by 60 – 100 men for whom quarters will also be ready by 1 October 1943.

Temporary cooking facilities for 800 inmates are in the camp.

Since these 800 men are necessary for the production, and in addition 200 more inmates will have to be accommodated for further extension of the camp, *the day rooms will each have to be filled with 35 men. Cooking facilities for 1000 men are also being provided for* (by adding a fifth boiler). This too, will be ready by 1 October 1943.

By 15 October 1943 the camp will have been extended so as to take about 2300 inmates (by increasing the temporary cooking facilities and by shifting the fence).

Accommodation for the necessary guards will also have been provided for by that date.

The entire camp for concentration camp inmates, will then be built to accommodate 4,000 men. For these (the remaining 1,700 inmates and guards) *the camp will be finished by 1 December 1943.*

2. *Employment of inmates in the production process—The inmates will first be put to work in shop 4* (*sections 3 to 7*) *and shop 5* (*sections 13–15*).

About 1,000 inmates will be put in these sections for training purposes. The sections in shop 4 will be fenced in by 29 September 1943, and in shop 5 by 6 October 1943.

It is intended to have the entire production in shop 4 carried out by inmates, and later on in shop 5 too.

Further measures for fencing, after the individual fences have been removed, will be settled with the leader of the [Security] detachment arriving with the first inmates.

During the training period the inmates will have to work together with Germans, and also with foreign workers (Czechs and Frenchmen), and will be subject to concentration camp rules and regulations.

In time, as more and more inmates are employed, the foreign workers will be removed from the shops. The Krupp firm specially points out that, in order to start gun production as fast as required, there should be as many skilled workers among the inmates as possible, and that these skilled men should arrive, if possible, with the first transports, so that they can be used for training purposes and also as foremen for the other inmates.

In addition the Krupp firm asks that, if possible, such inmates be sent here as seem suitable for the production intended. It is, of course, considered as agreed that those totally unsuitable for the work can be exchanged.

The allocation to work is planned as follows:

400 inmates	1 October 1943
400 inmates	10 October 1943
600 inmates	20 October 1943
400 inmates	1 November 1943
300 inmates	10 November 1943
2100 inmates	

Added to this will be 200 others by 1 October 1943 for extension work on the camp. *The other 1,700 men are to be employed in equal numbers by the end of the year.* It is intended that there be two shifts for the entire total. Shifts will be changed at noon and at midnight.

Distribution:

SS Captain Gideon 2}
Mr. Bartel 1} distributed on 21 September, Reiff.

Dr. Korschan
Mr. Hupe
Mr. Rosenbaum
Dr. Wollstaedter
Mr. Wolff
Mr. Ost
Mr. Frinck
Essen
Reiff

Signed: REIFF

PARTIAL TRANSLATION OF DOCUMENT NIK-15512 PROSECUTION EXHIBIT 1581

EXTRACT OF A MEMORANDUM FROM KRUPP DIRECTORATE, CO-SIGNED BY DEFENDANT ALFRIED KRUPP, 1 OCTOBER 1943, NOTING THE HIGHEST STATE AUTHORITIES' INTEREST IN THE DEVELOPMENT OF THE BERTHA PLANT

Copy

Main Administration
No. 817

1 October 1943

* * * * * * *

Subject: Berthawerk

Notwithstanding many difficulties we have pushed through the Berthawerk construction. The highest official agencies in the Reich followed the developments with keenest attention since the production which is scheduled here is of greatest strategic importance. As a result of the destructions wrought to our Essen plants this plant is of particularly outstanding significance. The start of production on schedule and without hindrance, the further development and the stepping up of production is, consequently, of the greatest importance.

* * * * * * *

Fried. Krupp Aktiengesellschaft, Directorate
Signed: GOERENS Signed: A. v. BOHLEN

EXTRACT FROM SPEER MINISTRY INFORMATION BULLETIN FOR 1943 CONCERNING RESPONSIBILITY OF THE LEADERS OF THE COMMITTEES AND RINGS*

Responsibility of the Leaders of Committees and Rings

In an appeal to the leaders of committees and rings the Reich Minister for Armament and Munitions in May 1942 (Information Bulletin 1942, page 15) expressed the expectation, that the leaders will fulfill their tasks by orders to industry. This task of leadership calls for severity. To support the leaders of committees and rings in their task, notice is given of the following circular of a committee chief to his special committees:

> "Lately I have received several communications from firms complaining that the leaders of the special committee treated the supplier too severely and demanded the impossible according to their opinion.
>
> "This, to me, serves as an indication, that you have fully realized the seriousness of the situation. At the present moment, when our fighting forces accomplish the most extraordinary achievements, it is our bounden duty to do the same and more.
>
> "I expect that you, in future, will deal even more rigorously with the firms and, in doing so, actually produce the required output in spite of conscription—drives and so on. You can rest assured, that I shall not only uphold, but support any measures, even the most severe ones, which you may take with regard to the firms, in order to put into effect an increase in output. I beg of you to instruct your production managers accordingly."

* Taken from the Information Bulletin of the Reich Minister for Armament and Munitions, 1943, p. 211.

TRANSLATION OF IHN DOCUMENT 818
IHN DEFENSE EXHIBIT 275

TELETYPE FROM SAUR OF THE SPEER MINISTRY TO DEFENDANT MUELLER, 4 OCTOBER 1943, REQUESTING AN IMMEDIATE STATEMENT CONFIRMING THAT SAUR'S DEMAND FOR PRODUCTION AT THE MARKSTAEDT PLANT BE FULFILLED

Received 69 4 October 1943

[To] Krupp Essen
[From] munmin bln [Munitions Ministry Berlin]

Teletype No. 29373 4 October 1943 1200

Professor Mueller [Illegible notes]

There may be reasons for your not having carried out your program with regard to the September deliveries from Markstaedt; *but I could at least expect that you would have informed me about them.* I now request an immediate written statement confirming that my demands regarding the October-November and the December production will be fulfilled.

Saur, Chief of the Technical Office of
the Reich Minister for Armament
[Illegible notes] and War Production

PARTIAL TRANSLATION OF IHN DOCUMENT 470
DEFENSE EXHIBIT 269

TELETYPE FROM THE SPECIAL COMMITTEE TANK PRODUCTION TO KRUPP, 27 OCTOBER 1943, GIVING INSTRUCTIONS CONCERNING PRODUCTION AND MANPOWER

[Stamp] Distribute immediately

[To] Krupp Essen
[From] munmin bln

Teletype No. 32358 27 October 1943 2310

To: Mr. Obering, Korkhaus, Tank construction III
*Subject: Production mouse**

[Stamp]
AK
28 October 1943 No. 03663
Answered:

Mr. [illegible]Saur decided that only one machine [mouse] will be constructed at your factory as a casing. The whole manpower, all the machines and appliances used for the mouse project are

* "Mouse" was the code name for super-heavy tank.

to be assigned immediately for the increase of your remaining programs within the production of tanks. The already prepared material shall be used for the ordered increase of the assault gun. I ask you therefore to inform me how much material you have prepared for the mouse and which sheet irons you could redirect to the assault gun production. The material must be transferred immediately to the firm Harkort-Eicken.

Special committee tank production
Signed: RICHTER

* * * * * * *

TRANSLATION OF KORSCHAN DOCUMENT 49
DEFENSE EXHIBIT 2190

LETTER FROM THE CHIEF OF THE OFFICE "TORPEDO WEAPONS" OF THE NAVY HIGH COMMAND TO KRUPP, 30 OCTOBER 1943, URGING KRUPP TO EXPEDITE PRODUCTION

High Command of the Navy
T Wa III Letter No. 15604/43 secret

Berlin W 35, 30 October 1943
Tirpitzufer 72/76
Telephone: Local 218281
Long distance 218381

Secret

To the Firm of Fried. Krupp A.G. Cast Steel Works
Attention of Director Boeminghaus
Essen—Ruhr
[Stamp]
Main Administration Machine Factory
MD No. 3077
Received: 11 November 1943
Answered:
[Stamp] File: 8/8 25/604
Official concerned: H. Boeminghaus
Copies to: Artillery Construction,
Janssen, E. Mueller, H. Boeminghaus,
Gruener, Eberhardt
1. Arends, Forge workshop
2. Richter, Foundry products
Rollensmann, Machine Construction 10,
Walter, foundries, Korschan, Berthawerk,
Erbacher, Berthawerk, MD
Subject: Submarine program

Reference—

Your works is participating in the submarine program in the field of torpedo ejection tubes through the supply of *submarine torpedo ejection tubes XXI.*

As you have already been informed by the special committee "Torpedo and Torpedo Ejection Tubes," these orders have an EXTRAORDINARILY HIGH PRIORITY.

As chief of the office for Torpedo Ordnance at the Naval High Command *I wish to underscore this priority classification* and inform you that TACTICAL OPERATIONS IMPORTANT FOR THE OUTCOME OF THE WAR depend on the punctual fulfillment of your orders. *I therefore request that, for the carrying-out of this production, you undertake to CONCENTRATE OPERATIONS in your plant and take personal action to have the orders finished on schedule if it should be necessary for insuring the delivery dates.*

I request your prompt confirmation.

[Illegible signature]

Commodore and Chief of the Office Torpedo Ordnance

T 18/11

[Handwritten] Submission of answer after mailing. [sic]

PARTIAL TRANSLATION OF DOCUMENT NIK–7248 PROSECUTION EXHIBIT 1127

EXTRACTS FROM MONTHLY REPORT OF THE BERTHA PLANT FOR JANUARY 1944, TRANSMITTED BY DEFENDANT KORSCHAN TO DEFENDANT KRUPP ON 10 FEBRUARY 1944, SHOWING NUMBER OF WORKERS BY NATIONALITIES AND NUMBER OF CONCENTRATION CAMP INMATES EMPLOYED

Dr. Ing. Dr. Mont. H. L. Korschan
Chairman of the Vorstand of
Fried. Krupp Berthawerk A.G.,
Breslau

Breslau, 10 February 1944
[Stamp]
Secretariat 1687
February
[Initial illegible]

To Dipl. Ing. Alfried Krupp v. Bohlen und Halbach
Essen
Fried. Krupp Gusstahlfabrik

[Stamp]

Main Administration 2 109 of 21 February 1944

Dear Mr. von Bohlen!

Attached I am sending to you the monthly report of the Berthawerk, for January 1944.

With best regards and

Heil Hitler!

Yours

[Signed] KORSCHAN

[Stamp]

Goerens [Initialed]
Houdremont (received 1 copy)
Erich Mueller [Initialed] MUE. 23 February
Janssen
Eberhardt
Ihn
Schroeder

1 Enclosure

[Handwritten] von Knudson
[Stamp] Fritz Mueller

* * * * * * *

III. *Personnel Questions*—

The employment figures for workers and employees present the following picture:

1. Workers—

Strength as of 31 December 1943	6,512 men
Increase	236 men
Decrease	112 men
Total strength as of 31 January 1944	6,636 men

These comprised—

	Male	*Female*	*Total*
Germans	1,504	199	1,703
Persons from the Protectorate	1,598	1	1,599
Frenchmen	645	12	657
Poles	171	15	186
Italian military internees	932	---	932
Resettlers	175	124	299
Ukrainians	106	19	125
Stateless persons	47	3	50
Eastern workers [Ostarbeiter]	58	137	195
Concentration camp inmates	890	---	890
	6,126	510	6,636

* * * * * * *

2. *Employees*—

	Indigenous Male	Indigenous Female	Foreigners	Total
Strength as of 31 December 1943	737	350	227	1,314
Increase	73	35	1	109
	810	385	228	1,423
Decrease	114	27	13	154
Total strength as of January 31, 1944	696	358	215	1,269

In the month of January a large number of French prisoners of war were made available to us from the blue-slip campaign [Blauzettelaktion] (agricultural workers)* who according to the most recent official announcement are to remain with us permanently.

The fact that the schedule for the train to the plant was advanced proved extraordinarily effective. The very considerable delays with which we so far had to contend have been eliminated.

As a result of an understanding reached with Reichsautobahn we were able to obtain admission to rest and recreation centers for deserving members of the working staff. The cost of their stay is being borne by the regional public insurance institute.

* * * * * * *

[Signed] GIROD
KORSCHAN

2 Enclosures
Distribution:
A. Krupp von Bohlen [Initialed] A.v.B. 7 February
Prof. Houdremont
Dr. Korschan
Girod
Rosenbaum, Dr. Wollstaedter, Reiff

* Foreign workers formerly allocated to agriculture were designated and transferred to industrial work by means of blue allocation slips.

PARTIAL TRANSLATION OF DOCUMENT NIK–13087
PROSECUTION EXHIBIT 1361

EXTRACTS FROM KRUPP MEMORANDA ON EXPENSES INCURRED IN AUGUST 1944 IN TRANSPORTING PERSONS WHO REFUSED TO WORK, FROM LIÉGE, BELGIUM TO ESSEN, GERMANY

15 July 1944

Journey to Liége for the collection of people who refuse to work
Journey there on 6 July, 0500 hours
Return on 7 July, 2100 hours
Travel by car
Expenses received, 875 Belgian francs
Expenses in Belgium—

7 x supper at 55 B Fr. each	385 B Fr.
Drinks	70 B Fr.
7 x Cigarettes 55 B Fr. each	385 B Fr.
7 x Coffee 5 B Fr. each	35 B Fr.
	875 B Fr.

[Illegible notes and initials] [Signed] HUEMMERICH
Fried. Krupp Aktiengesellschaft
Essen [Stamp] Plant Police
22 August 1944

To Labor Allocation A
[Stamp]
Outside labor allocation, came in on 22 August, Diary No. 9110
Replied
[Handwritten] Reference: Journeys to Liége on 7, 10, and 17 August 1944 for the purpose of collecting people who refuse to work. Request notification of account numbers.
[Stamp] [Illegible Signature]
Plant Police
22 August 1944
Diary No.
Official concerned
[Handwritten] Returned after discussion with Mr. Wilshaus.
Labor Allocation Office A, 22 August 1944
[Stamp] Labor Allocation Office A
[Signed] TROCKEL*

Expense account for the transport of people who refuse to work, from Liége to Essen. Leaving Essen by car for Liége on 7 August 1944 at 0530 hours.

* Trockel discusses the journey to Liége in an affidavit, Document NIK–12062, Prosecution Exhibit 1103, reproduced below in section VIII B 2.

Expenses—

7 August—food and drinks	600 B Fr.
8 August—food and drinks	850 B Fr.
9 August—food and drinks	425 B Fr.
	1875 B Fr.

* * * * * * *

TRANSLATION OF IHN DOCUMENT 387
DEFENSE EXHIBIT 883

KRUPP REPORT OF A CONFERENCE WITH THE SHOP COMMITTEE OF THE CAST STEEL WORKS, 13 SEPTEMBER 1944, AT WHICH DEFENDANT KRUPP ANNOUNCES APPOINTMENT OF DEFENDANT HOUDREMONT AS PLANT LEADER

Conference with the Shop Committee of the Cast Steel Works on 13 September 1944 in the conference room of the Alfred Krupp [A. K.] administration building.

Present were—A. v. Bohlen, Professor Goerens, Professor Houdremont, Ihn, Mette; the members of the shop committee (with the exception of Mr. Wulfmeier).

Mr. A. von Bohlen—

Half a year ago we met, to inform you regarding the conversion of the firm and the reallocation of the duties of the Direktorium. Not much has changed in the meantime, with one exception, and that is that we have come to the conclusion that in times of greatest strain on production it is practical to have the entire production of the Cast Steel Works concentrated in one hand. Three months ago Professor Houdremont was put in charge of the foundries as well as the machine shops, so that he has in his hand the entire production of the Cast Steel Works. In this connection we have also agreed that Professor Houdremont, as chief production manager, also takes over the post of leader of the enterprise within the meaning of the law for the regulation of labor. To Professor Goerens, plant leader since 1934, I wish to extend here my heartfelt thanks for the way in which he has performed this duty, as well as for the understanding for his duties and obligations displayed by him. The position of a plant manager here in Essen, the site of the firm's foundation, where already the third and fourth generation of Krupp members work, is a position involving a great responsibility towards the members of the staff. This position of responsibility was held by Professor Goerens, therefore I would also like

to thank him for this in the name of the staff members and the shop committee, I would like to thank Professor Houdremont for taking over the position of plant manager, and to ask him to conduct this office in the manner demanded by the present hard times, which entails much forethought and sometimes also hardships. I would like to ask him to conduct this office in accordance with the old Krupp tradition, insofar as this can be brought into line with demands made by war. To you, shop stewards and delegates, I would like to make the plea, that you and the entire staff put the same confidence in Professor Houdremont which you have shown so far in Professor Goerens, and that you will also show good cooperation with Professor Houdremont. The war is not ended yet. We all know that the armed forces will do all in their power to bring our enemies to a standstill. Working conditions will not become any easier. Many foreigners are here. The principal task is to maintain order and increase production, even under conditions under which one could formerly not have done so. During these difficult times one thing only matters, and that is work, and more work. In conclusion I would like to mention that Professor Houdremont in case of temporary absence will be represented by Mr. Ihn where the sphere of management is concerned.

Mr. A. von Bohlen then read the announcement which will be published in the next issue of the plant newspaper.

Shop Steward Buschmann—

This news surprises us somewhat, as we neither knew nor had any idea about it. Still, one and all we feel compelled to extend our heartfelt thanks to Professor Goerens in the name of our comrades for the trustful cooperation of the past 10 years. I once said that confidence must be gained by working for it, and today I am able to state that we have earned it. I would also like to ask Professor Houdremont to give this confidence to us in the same spirit and in the same way. We shall do all in our power to keep the plant working despite all difficulties, and to carry out all the tasks entrusted to us. You may be assured that we will also explain this to our fellow members of the staff.

Professor Goerens—

Nothing of any consequence has occurred by this present act. These conditions have actually been a fact for quite some time already. Professor Houdremont has been with us for many years now. The tasks and duties taken over by him have been crowned with success in that way. I am most grateful for the cooperation we enjoyed for many years. We have acted, and this I can

confirm to any one of you, just as I promised on the first day. At that time I said, that I would never tell you a half truth, or truth which had been tampered with. We have negotiated most honestly with each other, and I voiced the request at that time that I should be told also about unpleasant matters as plainly as possible. It was not very easy at first. But gradually we surmounted the difficulties. At that time I also told you that if you ran up against any difficulties, you should explain these difficulties in a most explicit manner. Only then could we tackle those matters and clear up the situations, and this we have also accomplished. I know Professor Houdremont as a valued collaborator who is as familiar with these matters as I am, and who will also demand absolute clarity in all situations however unpleasant they may be. And so I would like to wish success to this collaboration and extend my heartfelt thanks to you all.

Professor Houdremont—

For years I have closely watched the cooperation with Professor Goerens, and I assure you that I shall work together with you in the same spirit. I do not waste many words, instead I favor deeds, and so I shall also follow up all problems and clear up unpleasant situations. In this connection we have to consider two matters—on one side the human being, and on the other, work. The attitude taken toward the human being is the one necessary for our cooperation. It pays to follow up the worries of human beings. The comradeship which is demanded, and which ties us to the plant exists. I would like to ask you to favor me also with your confidence.

[Signed] METTE

PARTIAL TRANSLATION OF DOCUMENT NIK–7454 PROSECUTION EXHIBIT 1150

EXTRACTS FROM A MEMORANDUM OF THE FLICK CONCERN, SIGNED BY BERNHARD WEISS, 14 OCTOBER 1944, REPORTING THE NATURE OF KRUPP'S MARKSTAEDT PLANT AND NOTING THAT DURING AN AIR RAID ALARM ALL WORKERS EXCEPT CONCENTRATION CAMP INMATES LEFT THE PLANT

W/Ga 14 October 1944

Memorandum for Mr. Flick

Secret

Subject: Friedrich Krupp Berthawerk A.G., Markstaedt

Dr. Putze and I went to Markstaedt yesterday. The commercial director, Dr. Wollstaedter, gave us a very friendly reception. He

asked me what I had to do with the Flick group and I gave him the answer.[1] (Just before that Mr. Wollstaedter had asked Mr. Putze in a joking manner whether we had an eye on Markstaedt.) The reason we came, I told Mr. Wollstaedter, was to let him know that we should gladly supply him with rolling-mill equipment [Walzwerkseinrichtungen], should he possibly have a need for them. Apart from that the activity of Markstaedt interested us, of course, from the point of view of the LHW. Up to now LHW and Famo have been the most important industrial complex in the Lower Silesian area. Since the Krupp firm had decided to build such a big plant there, it was, of course, for us of general importance to know what further plans were being made and what was going on in Markstaedt. Mr. Wollstaedter fully understood this and willingly gave us the desired information as follows:

The land which the Krupp firm had acquired lies near the communities of Markstaedt and Fuenfkirchen between the Breslau-Oppeln railway and the Oder River on the eastern side of the Oder. The land comprises 2000 hectars or 20 million square meters. It had for the most part already been acquired before by I.G. Farben, partly by expropriation of the former owners because I.G. Farben originally had had the intention to build a buna plant there. The Krupp firm later on bought the land from I.G. Farben after the plans to build a buna plant did not materialize.[2] It is intended to make a canal to the Oder and also a port.

The original planning had provided for the construction of a complete foundry (open hearth and electro steel plant, rolling mills and refining plants) with a total steel output of 1000 tons per month—an output which fairly well corresponds to the present output of Krupp in Essen and Rheinhausen. In connection with the rolling mills definite plans had already been drawn up for the cylinder works of the well-known big armored plates "street" by Sack. But because of the deteriorating war situation this big plan had to be postponed. For the time being the Krupp firm received the order to confine itself to the production of finished armament products.

* * * * * * *

[1] The head, Friedrich Flick, and five officials of the Flick concern were tried on charges of spoliation of property or participation in the slave-labor program in the "Flick Case," United States *vs.* Friedrich Flick, et al., Case 5, Volume VI. Bernhard Weiss, who signed this memorandum, as well as the two persons receiving copies of this memorandum (Burkart and Kaletsch) were defendants in the Flick Case. Weiss was found guilty on the slave-labor charges, whereas Burkart and Kaletsch were acquitted.

[2] The I.G. Farben concern did build a large buna and synthetic oil plant at another site near the Auschwitz concentration camp. Twenty-four officials of the I.G. Farben concern were charged with war crimes and crimes against humanity for alleged responsibility in Farben's employment of concentration camp inmates at the Farben Auschwitz plant. Five of the officials were found guilty, the rest acquitted of these charges. (United States *vs.* Carl Krauch, et al., Case 6, vols. VII and VIII.)

Markstaedt altogether employs 15,000 workers including 3000 construction workers furnished by Speer (Organization Todt). In the manufacturing process itself 12,000 workers are employed about half of which are concentration camp inmates.* The other workers are mainly foreigners—Poles, Russians, Frenchmen, etc.—and there is only a very insufficient number of German foremen and supervisors. Mr. Wollstaedter mentioned in connection with this that the Krupp plants in the West could provide German personnel only to a very limited extent. Not even because of damages caused by air raids could workers be released there to an extent worth mentioning, because production on the one hand has again been taken up considerably and, on the other hand, people are urgently needed for cleaning up and reconstruction work.

* * * * * * *

The whole conversation was very friendly and Mr. Wollstaedter thought that we ought to keep in touch to a certain extent in the future, too. He regularly gets together with Dr. Putze since the latter is the competent armament chief. And he would, at any time, be ready to discuss several economic questions of the Lower Silesian area with me.

* * * * * * *

On our visit through the plant we were only able to take a look at shop 1 in which parts for the field howitzer are fabricated. Then there was an air raid alarm. Since sufficient shelter was not available we were advised to leave the plant. The employees and the workers too, with the exception of the concentration camp inmates, left the plant, some in busses, some on bicycles, while still others ran into the surrounding territory up to a distance of 1 or 2 kilometers from the plant.

* * * * * * *

[Signed] B. WEISS

Copies to:
Dr. Burkart
Mr. Kaletsch

* Compare the figures given in the affidavit of the defendant Alfried Krupp, Document NIK-11231, Prosecution Exhibit 1247, reproduced above in this section.

2. PROSECUTION TESTIMONY AND AFFIDAVIT

EXTRACTS FROM THE TESTIMONY OF PROSECUTION WITNESS JAROSLAV BRANDEJS*

DIRECT EXAMINATION

MR. MYERS: Witness, will you state your full name and present address?

WITNESS BRANDEJS: Jaroslav Brandejs, Cecelice No. 140, District Melnik [Czechoslovakia].

Q. What is your present occupation or business, Witness?

A. Electromechanical engineer.

Q. What was your business or occupation in 1941 or 1942?

A. Machinist.

* * * * * * *

Q. Were you, Witness, ever called to the labor office in Melnik?

A. Yes, I was called there.

Q. About what date was that?

A. In October 1942.

Q. And you say that you were called to the labor office?

A. Yes.

Q. By whom?

A. By the labor office.

Q. What was said to you then?

A. They told me I was assigned to work in the Reich.

Q. Were you offered a contract?

A. No.

Q. What did you say?

A. I told them I would not go; there was enough work at home.

Q. What was your physical condition at that time?

A. A doctor told me I was unfit for work because of stomach trouble.

Q. But you did go to work, didn't you?

A. Yes.

Q. Where?

A. To Prague-Lieben.

Q. After going to the labor office, did I understand you to say you were sent to a plant or factory or some place to work?

A. Yes.

Q. Where did you go?

A. I was sent to Essen.

Q. Where did you work in Essen?

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* Complete testimony is recorded in mimeographed transcript, 29 January 1948, pp. 2643-2677.

A. In the engine construction shop 8.

Q. In which camp?

A. Number 3 Hafenstrasse.

Q. Who owned or operated this Maschinenbau 8?

A. Krupp.

JUDGE DALY, Presiding: What was the camp's name?

MR. MYERS: H-a-f-e-n-s-t-r-a-s-s-e, is that correct?

THE INTERPRETER: Yes.

MR. MYERS: Now, you continued to work then in Essen how long?

A. Beginning 30 November 1942, to 13 December 1943.

Q. And all this time did you work in Essen?

A. Yes.

Q. I believe you got permission to go home one time, did you not?

A. Nobody knew about it. I knew an officer at home.

Q. I am speaking about receiving a cable and getting permission to go home.

A. Yes, I got a telegram.

Q. Will you state the circumstances of that incident?

A. I received a telegram that a sister of my mother had died, and I showed it to my foreman. He told me that wasn't possible. So I took an interpreter and went to the main office and he settled it for me, and I went home.

Q. You got home and you were supposed to go back to the factory, is that correct?

A. Yes.

Q. You were told to go back to the factory after your leave had expired, is that right?

A. Yes, yes.

Q. But did you do that?

A. I didn't go back.

Q. What happened then?

A. At the request of Krupp I was called to the police and was told I should be in Muelheim by the 8th.

MR. MYERS: The latter part of the answer I didn't understand.

THE INTERPRETER: At the request of Krupp I was called to the police and was told I should be in Muelheim by the 8th.

MR. MYERS: You say, Witness, that it was at the request of Krupp. What makes you believe so, or what makes you know that it was a fact?

WITNESS BRANDEJS: I know that because my father speaks German well and he read it out to me and I got that by mail.

* * * * * * *

CROSS-EXAMINATION

* * * * * * *

DR. WOLF (counsel for the defendant Lehmann): Do you know that at the same time you were drafted for work in Germany, people of the same age as you were not drafted but were called as a result of contracts between the labor office and the individual Czech concerned and were sent to Germany?

WITNESS BRANDEJS: Yes.

Q. How was your trip to Germany? Were you fed on the way and did you go by rail?

A. In Melnik we all received a piece of bread and sausage. Then we went to Prague and then we went directly to Essen.

* * * * * * *

EXTRACTS FROM THE TESTIMONY OF PROSECUTION WITNESS FATHER ALPHONSE COME[1]

DIRECT EXAMINATION

MR. THAYER: Witness, will you state for the Tribunal your full name and residence?

WITNESS COME: My name is Alphonse Charles Gyseline Come —C-o-m-e; and I am a priest at Semuid—S-e-m-u-i-d. The first names are Alphonse Charles Gyseline.

Q. Is your nationality Belgian, Father Come?

A. Yes, I am a Belgian.

Q. Are you presently on leave from your parish?

A. Yes, just now I am on leave from my parish.

Q. Are you also a chaplain of the Belgian Army?

A. I was a chaplain in the Belgian Army, but just now I am a chaplain for the Belgian Red Cross and am in charge of a mission and attached to the Belgian Red Cross for Germany.

Q. In August 1944 what was your profession, and where were you living, Father Come?

A. I was then a priest at Semuid, as I explained before.

* * * * * * *

Q. Father Come, did you spend a part of the war in Essen?[2]

A. I remained at Essen from 25 August 1944 until 4 May 1945.

Q. Did you go to Essen voluntarily?

A. Most decidedly not.

Q. How did you happen to go to Essen?

A. On 15 August 1944, the day of the Assumption, at 5:10 a.m., I was just preparing to go to church when a truck arrived with

[1] Complete testimony is recorded in mimeographed transcript, 2 and 3 February 1948, pp. 2968–3012.

[2] A photograph of Father Come, pointing to a map of Essen, appears in the forepart of this volume.

German soldiers and they surrounded the vicarage. They knocked at the door and there was one German sergeant, a "Feldwebel," and two others. They blocked all the exits. They rang, I opened the door and they entered. "You are a prisoner." I asked why and the only answer I got was, "That is an order." Ten people were taken, I was not the only one, ten people were taken from our village among them the mayor, the village clerk, two magistrates, two councilors, and some other people; among them also old people. In the neighboring village, ten more were taken, ten more in another village nearby and twelve in another village.

Q. And where were you taken, Father Come, from your village of Semuid?

A. We were taken to the Arlon prison, where we were never interrogated. On 25 August, at 4:00 a.m., we were taken to the railway station altogether in a transport, to be taken to Essen. Again we were never interrogated—I repeat, neither during the arrest nor in prison, nor at Essen.

Q. Were you never presented with any charges?

A. No, never.

Q. Were you ever given any kind of hearing or trial?

A. No, never.

Q. To what place in Germany were you taken by train?

A. We were taken to the central railroad station at Essen, and at 5:30 p.m., we were made to form ranks. There the German Feldwebel told us, laughing, "Now you are going to work at Krupp, and for you that is going to be boom, boom, I mean bombing."

Q. Where were you taken from the station—were you taken to the camp?

JUDGE WILKINS: Excuse me, I didn't get who said that.

THE INTERPRETER: The German Feldwebel, sergeant.

MR. THAYER: Were you taken to the camp from the station?

WITNESS COME: First of all, we stayed at the railroad station, standing in ranks for more than 2 hours, then armed guards, armed with pistols or rifles, marched us to the camp of Dechenschule.*

Q. Were these armed guards designated in any way as military officials, as Krupp Werkschutz [plant police], or how were they designated?

A. For us at that moment we didn't see any special significance. We didn't know anything. All they were for us were armed civilians. We didn't attach any other importance.

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* Further extracts from the testimony of Father Come concerning Dechenschule are reproduced below in section VIII D 2.

Q. Did you know or did you learn later what connection, if any, camp Dechenschule had with the firm of Krupp?

A. I can give you four reasons. First of all, of course, we assumed—but that was only an assumption—on our arrival that the camp would work for Krupp, because we gathered that from the Feldwebel, because the German sergeant said, "Now you are going to work for Krupp," so we assumed there was some connection; the second reason was while we were in the camp at Dechenschule we worked exclusively for Krupp in the factory. The third reason was, after the bombing, next to the camp because the camp had been destroyed, Mr. von Buelow came and this director made a speech. The fourth reason is that whenever the plant police or people in the camp would talk of their bosses, they always talked of Krupp directors and Mr. von Buelow.

* * * * * * *

CROSS-EXAMINATION

DR. POHLE (counsel for the defendant von Buelow): Father Come, were any arrests carried out near your home village of the members of the resistance movement?

WITNESS COME: I don't know about any.

Q. Were you yourself a member of the resistance movement?

A. Counsel, let me tell you that this is the first time that a German has asked me that question, either in prison or in camp, or even Mr. von Buelow never asked me the same question. Now, that you ask it, I will answer it. As a Catholic priest it was my duty to oppose the tendency of turning the world into pagans in the haven of the German Army.

Q. Father Come, I quite understand this attitude, but I'd like to deduce from that, and I'd like you to confirm whether this deduction is right. You mean to say by that that you did belong to the Belgian resistance movement?

A. Certainly.

Q. From Arlon you were taken by rail to Essen, is that correct?

A. Yes, that is correct. The day before we left we were told—and I am giving you exactly what we were told—"pack your parcels, you go to Germany."

TRANSLATION OF DOCUMENT NIK-12062
PROSECUTION EXHIBIT 1103

AFFIDAVIT OF ADOLF TROCKEL,[1] KRUPP LABOR OFFICIAL, 24 SEPTEMBER 1947, CONCERNING TRANSPORTING OF BELGIANS FROM LIÉGE TO ESSEN BY KRUPP PLANT POLICE

I, Adolf Trockel, living in Essen, having been warned that I shall be subject to punishment if I make a false statement, hereby make the following statement on oath of my own free will and without coercion:

From 1942 until 1945 I was employed with the Labor Allocation Office A of the Gusstahlwerke Fried. Krupp A. G., Essen, an office which was under the management of Mr. Lehmann. I can make the following statement concerning camp Dechenschule:[2]

This was a camp which was set up by the Gestapo for workers from the West, who were allocated for labor within the Krupp firm. The allocation to the camp was made by the Gestapo; the guarding and administration were done by the Krupp plant police under an agreement reached between Mr. von Buelow and the Gestapo; the feeding was done by the Main Administration for Workers' Camps. The allocations to camp Dechenschule consisted mainly of Belgians.

One day in 1944 we received a call at the Labor Allocation Office A that a transport of Belgians had been made up in Luettich [Liége, Belgium] which was intended for the firm of Krupp, and which was being allocated to Dechenschule. Thereupon we contacted the plant police, who sent a group of their armed men with a truck to Luettich to pick up the Belgians there.

The only instructions which we received were that the people should be assigned to employment as a unified group. Further, the prisoners wore a kind of prisoners' uniform; this was a dark suit with a large stripe. There was also a special camp of the Gestapo for workers from the East in the city of Essen, but the firm of Krupp had nothing to do with it.

I have carefully read the two pages of this affidavit, I have made the necessary corrections in my own handwriting and countersigned them with my initials, and I hereby declare on oath that I have told the absolute truth in this affidavit.

[Signed] ADOLF TROCKEL

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[1] Trockel testified as a defense witness after this affidavit was introduced in evidence by the prosecution. Extracts from his testimony are reproduced below in section VIII F 4.

[2] More extensive evidence concerning the Dechenschule camp is reproduced below in section VIII D. Dechenschule is the camp to which the prosecution witness Father Come was transported. See the extracts from his testimony reproduced immediately above.

EXTRACTS FROM THE TESTIMONY OF PROSECUTION WITNESS ALBERT SCHROEDTER, COMMERCIAL MANAGER OF KRUPP'S GERMANIA SHIPBUILDING YARDS[1]

DIRECT EXAMINATION

MR. BRILLIANT: Mr. Witness, what is your name?

WITNESS SCHROEDTER: Albert Schroedter.

* * * * * * *

Q. Mr. Schroedter, before you begin to clarify this affidavit (*NIK–12306, Pros. Ex. 301*), I would like to ask you two questions, first, what was your function at Germaniawerft [Germania Shipbuilding Yards]?[2]

A. I was the commercial manager and member of the Vorstand as of 1 March 1926 until 30 September 1943.

Q. How many Vorstand members were there at Germaniawerft?

A. As a rule, two.

* * * * * * *

Q. Was it Germaniawerft's policy in 1940, shall we say, and thereafter, to build as many U-boats and destroyers as its production potential permitted?

A. Yes. It belonged to the economic utilization and management of such a type of enterprise.

Q. And you attempted, of course, to achieve maximum production?

A. Yes.

Q. Now, was it the practice, Mr. Schroedter, when you made an estimate to the navy, or when you gave an estimate to the German Navy of how many U-boats and destroyers you thought Germaniawerft could build, did you not also—or did you also inform the navy that this estimate was dependent upon the navy's furnishing the necessary manpower?

A. Yes.

Q. You may continue, Mr. Schroedter, with the affidavit.

A. On page 5 of the German, first line, second paragraph—or rather 12 in the German—I also dealt with Mr. Loeser concerning questions of the legality of the use of prisoners of war in the armament production. That is on page 154 of the English, in the second paragraph, 11th line. It was stressed that we were to be guided by the way this matter was handled in Essen. The word

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[1] Complete testimony is recorded in the mimeographed transcript, 29 and 30 January 1948, pp. 2678–2709, 2723–2767.

[2] Further materials concerning the functions of the Germaniawerft appear above in section VI.

"legitimacy" is not of my own choosing. The connection is as follows: We had a definite program for the navy. The navy was desirous of having us meet all our deadlines. It constantly withdrew people for war service from the shipyards and promised to send us prisoners of war or other foreign workers. These replacements could not be obtained without some difficulties, they could not perform the work of the German workers they were to replace. There were differences because the deadlines were not kept—they could not be met. The navy complained quite often to the Aufsichtsrat, the supervisory board of directors—

Q. Excuse me, Mr. Schroedter. The Aufsichtsrat of Germaniawerft?

A. Yes, of the Germania Shipyard.

Q. Are any of the defendants here—or were any of the defendants members of the Aufsichtsrat?

A. Yes.

Q. Would you please mention their names?

A. Mr. Alfried Krupp von Bohlen, Dr. Loeser, Dr. Janssen.

Q. Please go on.

A. The Vorstand of the shipyard considered it its duty to inform the Aufsichtsrat, the supervisory board, of these matters, and to keep it informed regularly in the reports of the Vorstand of the shipyard, made monthly to the supervisory board, the Aufsichtsrat. There was always one paragraph contained, concerning manpower matters. These reports were not made regularly, but at certain intervals—if I remember correctly, three to four times a year—they were discussed in Essen, I remember that at one of these conferences there was a particularly very critical time, with regard to the number of the workers in the shipyard. I had the desire to find out—"How am I going to act in front of the parent firm with regard to measures to be taken for the employment and allocation of prisoners of war and foreign workers?"

* * * * * * *

Q. Mr. Schroedter, you said that Germaniawerft had had some difficulty in meeting its production deadlines, and that the German Navy had complained about that to your Aufsichtsrat, the Germaniawerft Aufsichtsrat, and since you were in the practice of informing the chairman of the Germaniawerft Aufsichtsrat of all immediate difficulties that you had in your production, you took it upon yourself to go to Essen and converse with members of the Aufsichtsrat in respect to the difficulties responsible for your failure to meet the production deadline. You stated that the primary reason for your failure to meet the production deadline was the manpower shortage, and that you went to Essen to see how Essen and the other firms of the Krupp concern were using

their prisoners of war and foreign workers, is that correct? Please continue.

A. Yes. After this question had been discussed with the members of the Aufsichtsrat—that is, Mr. Loeser and Mr. Alfried von Bohlen—it was suggested to attach a plant manager to me, a Mr. Girod. He was to be called in so he could introduce me into the procedure of the works.

Q. That was the works at Gusstahlfabrik?

A. Yes. Mr. Girod took me to some of the shops where foreign workers were being trained for locksmiths, turners, and other similar professions. The experiences I gained I took with me to Kiel, and we arranged our workshops in a similar manner.

Q. Are you finished, Mr. Schroedter?

A. Yes.

Q. I would like to ask a few questions to further clarify this legitimacy point. Did Mr. Loeser or Mr. Alfried von Bohlen inform you at any time that the employment of prisoners of war in armament production was legal?

A. No, a member of the Vorstand had to know that for himself.*

Q. That it was legal or was not legal to employ prisoners of war in armament productions?

A. That it was not legal to employ foreign workers in the armament industry. A Vorstand member had to know that, and we didn't discuss that point at all therefore.

Q. Now, you stated that when particularly important problems arose regarding—strike that. I'd like to go back a little further. When did the Germaniawerft first receive prisoners of war?

A. That was shortly after the outbreak of war and after the first prisoners arrived in Germany.

Q. In 1940, I presume? The early part of 1940?

A. Yes.

Q. What type of prisoners did you have—from what countries?

A. They came from the West—first of all they were French, Belgian, and Dutch.

Q. Did you later receive any other types of prisoners of war? From what countries were they?

A. Well, they came from the Southeast, and from Russia.

Q. Yugoslavs, Italians?

A. Yugoslavs and Italians, too, but they came much later, and they, of course, were not prisoners of war, they were Italians who were brought to Germany in order to work there. They were in uniform.

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* The type of work performed by prisoners of war in a number of Krupp plants is covered in greater detail in section VIII G, below.

Q. The Italians were the only ones in that entire group that were not prisoners of war?

A. Yes.

Q. Now, then particularly important problems arose relating to the prisoners of war and foreign workers, who were working at Germaniawerft. Was it your practice to discuss these problems with the defendants, Loeser and Alfried von Bohlen?

A. As I have already said, if the problems were important, then we did. For instance, the procurement of housing.

JUDGE DALY, Presiding: Procurement of what?

WITNESS SCHROEDTER: Housing, accommodations for the foreign workers, because they had to be housed in huts or camps.

MR. BRILLIANT: In what year was it that you decided to discuss with Mr. Loeser the manner in which Essen and the other concern firms were employing their prisoners of war on armament projects—in what year was that—1941?

A. As far as I can remember it was 1941.

Q. In 1941 you made a special visit to Essen to explain to Mr. Loeser why you were unable to meet your production deadlines and to inquire of him how Gusstahlfabrik and the other concern firms were using prisoners of war on armament projects, and Mr. Loeser told you to look around Gusstahlfabrik?

A. Yes.

Q. Was the reason why Mr. Loeser told you to look around Gusstahlfabrik to see how the prisoners of war as Gusstahlfabrik were being trained to do skilled work?

A. No. As I have already said, he asked Mr. von Bohlen to attach to me a plant manager who would show me what measures had been taken in Essen in order to select, from that mass of prisoners of war and civilians who had meanwhile arrived, those who would be suitable for skilled mechanical work. That is what I saw, and that is what I took away with me—that is, the experiences of how this could be done, but I was not given any directives on how to employ these men in the armament project, because that was a matter which the Vorstand had to decide for itself, and I myself too knew that the employment of prisoners of war on immediate armament work was not legal.

Q. Didn't Mr. Loeser tell you that the policy of training prisoners of war and foreign workers was the policy of the entire concern, and that this policy was being extended to the subsidiary firms and was permitted by technical conditions?

A. No, Mr. Loeser or Mr. von Bohlen, I think it was Mr. Alfried von Bohlen told me—"You come to see us on all these questions. We will show you how we do it, then you can draw your own conclusions of how you want to arrange matters in

Kiel, where conditions are different." From that sort of suggestion this meeting in Essen took place.

Q. Was one of the reasons why it was not feasible to employ prisoners of war on armament production in Germaniawerft the fact that to work on the keel of a submarine requires such special knowledge that you couldn't train a prisoner of war to work on the welding of the keel, or similar projects, is that right?

A. Of course, it was possible to train prisoners of war as welders for instance. That was also done in the Germaniawerft, but not in order to make them use their skills on warships.

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EXAMINATION BY THE TRIBUNAL

JUDGE ANDERSON: Witness, I want to clarify in my own mind your testimony with respect to one or two points, about which I am not quite sure that I understood you. Now, I understand that there were certain deadlines set by the navy which you had difficulty in meeting for lack of necessary labor, is that correct?

WITNESS SCHROEDTER: Yes.

Q. And you advised—whom did you advise that it was necessary to have additional labor in order to meet those deadlines?

A. The ordinary channel was—

Q. Now, let me ask you—I didn't ask you about the ordinary channel; I want to know not what the ordinary channel was, but what you actually—with whom did you take up that problem about getting that labor?

A. First of all with the navy authorities themselves and at the same time with the Aufsichtsrat of the Germaniawerft in Essen with the intention of finding out there how else one could speed up the allocation of prisoners of war and foreign workers. In other words, how one could introduce these people into semi-skilled work or skilled work.

Q. Now, what you were trying to find out was whether or not you could use these prisoners of war without doing so illegally. Isn't that the core and substance of the whole business?

A. I have already said that it was quite out of the question as far as I was concerned to occupy a prisoner of war on immediate armament production.

DR. WECKER: Your Honor, may I ask you kindly to repeat the question because I think the translation did not come through in the proper way.

JUDGE ANDERSON: All right. I think I said, that is it certain, that you were trying to find out a way to use these prisoners of war without it being illegal, without there being the question of illegality? Wasn't that about the substance of it? You knew it was illegal as I understand it.

WITNESS SCHROEDTER: Yes, Your Honor, if you would kindly

realize the following: hundreds of prisoners of war arrived, and as I have seen in Essen the firm then set up special training shops in order to find out, after the real skilled workers had already been screened, also to test the others whether they were suitable for special training, whether they are to be a locksmith, a turner, or welder, and to give them this training and place them accordingly. In our plant as well as in other industrial plants we also had a certain percentage of the unskilled hands employed where it was necessary to keep the whole thing running. The production itself is of course run by skilled hands.

There are plenty of jobs which do not require skilled workers, for instance in the central office in the accommodations office, in administrative jobs, but, on the other hand, you also have to have welders who see to it that little repair jobs are carried out, but the actual armament jobs are being carried out by those people who are admitted for such jobs and permitted to carry it out; therefore, if those who are being trained as skilled workers can then be used for jobs which are not so productive, but if you have them you can take the German skilled workers out of such unproductive jobs in order to employ them in defense armament jobs. But, of course, such German workers were repeatedly drafted into the armed forces, by the navy too, and we had to replace them constantly. What I wanted to find out in Essen was how to cope with these difficulties, what their training schools looked like, and that was a reason important enough for me in view of the great difficulty in obtaining such labor to discuss the matter with my offices.

Q. That was the point that I was trying to clear up in my own mind, and I still haven't cleared it up. If you knew it was illegal, just what problem was it necessary for you to discuss with the people in Essen that you couldn't solve yourself? What did you want advice about? You had a plant manager. Just what was it that you wanted advice about that you went there for? That is what I am not clear about.

A. I wanted to see, Your Honor, what methods they used in order to screen such workers who would be suitable for skilled work; what I wanted to see was did they have their own workshops, or did they just put these people with German workers into an already existing workshop and I saw in Essen that they had special training shops with lathes, welding machines; there was a forge, cranes, on which the workers were trained to service a crane, and all these things were of extreme importance to me because they speed up the process of training and we in the Germaniawerft acted accordingly, and had very good results.

Q. Now, it is clear that I did misunderstand you, because it

seems now that there wasn't any doubt about your employing these prisoners of war, was there?

A. No, there was no doubt.

Q. You just wanted to consult with your superiors about the most practical and feasible way to employ them to the best advantage, is that how you wish to be understood?

A. Yes, that I can say.

Q. Now, one further question. When you went there and consulted them about the matter, particularly Dr. Loeser and the defendant Alfried Krupp, were they aware of the purpose for which you came there as you have just stated?

A. No, it happened in the course of a general and annual meeting that I said in the report I had to make, there was always one item which was headed "labor questions," and under that point I used to report on the difficulties we might have in all labor questions and in the course of the discussion on this point, I particularly stressed this point and asked for advice.

Q. Stressed which point, that is—

A. The question of how these foreign workers and prisoners of war could be trained or retrained in order to make them into artisans from people who had never handled any tools.

Q. I beg your pardon, are you finished?

THE INTERPRETER: Yes, he had just said, "that is what was our difficulty."

JUDGE ANDERSON: Was it at that point that either Dr. Loeser or the defendant Alfried Krupp told you, in effect, that the best way to get that information was to go around and see what they were doing there at Gusstahlfabrik and put you in charge of a plant manager?

WITNESS SCHROEDTER: Yes, that is how it was.

Q. Well, did you observe, at that plant in your tour with the plant manager, that prisoners of war were being trained?

A. Yes, I did.

Q. Now, one further question. It is in the record, but I care to keep it in my mind. At your plant, what did you produce other than armament, or battleships, if anything?

A. Well, that depends a bit upon the period you are referring to, Your Honor.

Q. Yes, you are right, I should have stated that more accurately. During the period that we have been discussing, say from 1939 to 1945, or during—from 1939 until the end of your employment?

A. As late as 1939 we still had to construct commercial ships. As far as I remember the last two orders for commercial ships we had to carry out for Hapag. They were ships of 10,000 tons.

The first of these two was almost finished, up to 90 percent. The second had progressed less. These two ships were finished although against the strict opposition of the navy authorities. The first was handed over to the Hapag and the second was serviced by the navy later on, and they transformed her into an auxiliary cruiser. That, as I say, was the remnants of our peacetime orders for commercial navy, but perhaps I'd like to remind you that the Germaniawerft was always very interested to maintain their connections with commercial shipping as far as possible for them.

Q. I beg your pardon, had he finished? I thought you had finished. Go ahead.

A. The most favorable arrangement for the Germaniawerft was always if they had to take up the construction of warships again to construct one-third commercial ships and two-thirds high-quality warships. That, as far as the capacity and the equipment of the Werft was concerned was the most favorable arrangement.

Q. Well, I didn't mean to provoke quite that line of thought. I was simply trying to ascertain whether or not after 1939 there was a period when your factory was devoted exclusively to production of implements of war?

A. No, I must however add that the Germaniawerft did not only build ships but also engines, also for purposes on land, and the boiler forge produced heavy boilers and power installations for the industry.

Q. Well, was that during the war?

A. Yes.

Q. All right.

JUDGE WILKINS: Judge Daly, may I ask a question?

JUDGE DALY, Presiding: Yes.

JUDGE WILKINS: You stated a minute ago to Judge Anderson that the two gentlemen with whom you talked at Essen, with Mr. Krupp and—that is, Mr. Krupp von Bohlen and Mr. Loeser, is that correct?

WITNESS SCHROEDTER: At the time I wrote the affidavit that was true.

Q. Well, is that true?

A. There was also Mr. Janssen.

Q. Janssen. Now, you mentioned that you had attended an annual meeting at which time you discussed this particular problem relating to labor. Did I understand you correctly?

A. Yes.

Q. Now, were there any of the other defendants here in the courtroom that were present at those annual meetings?

A. In my recollection Alfried von Bohlen and Loeser—

MR. BRILLIANT: Of course, Professor Houdremont is not here.

JUDGE WILKINS: I didn't get your answer, Mr. Witness, may I just repeat it. May I just recall your answer. You are acquainted with the defendant Houdremont?

WITNESS SCHROEDTER: Yes.

Q. Well, were any of these other defendants other than Mr. von Bohlen and Mr. Loeser present at any of those meetings when this matter was discussed?

A. Not as far as I remember, but it may have been that Dr. Janssen was there for some time, but none of the technical directors were there.

Q. Well, the annual meeting, was that a meeting of the Vorstand at Essen?

A. No. Your Honor, perhaps this is my mistake; it may not have been an annual meeting. It was a meeting at which the question of balance sheets were discussed. It was a meeting of my Aufsichtsrat, that means, it was not a meeting of the entire Aufsichtsrat, but only of those people who were particularly at the same time members of the Directorate who at that time were in the Aufsichtsrat of the Germaniawerft.

Q. How many times did you go to Essen to discuss the problem?

A. This problem was regularly discussed under the heading of labor questions. As I have already said that in my recollection these meetings took place 3 or 4 times a year.

Q. Three or four times a year, and that was from 1939 until 1943 when you retired?

A. Yes.

Q. Now, at these meetings then were any of these other defendants present at any of those which took place three or four times a year other than Mr. von Bohlen, Mr. Loeser, or Mr. Janssen?

A. I do not remember. The other gentlemen were not members of the Directorate nor members of our Aufsichtsrat.

JUDGE WILKINS: I have no further questions.

JUDGE ANDERSON: I have one question I remember that I didn't ask him.

Did you use prisoners of war at your plant in the production of armaments?

WITNESS SCHROEDTER: No.

Q. What did you use them for?

A. We used them for nonproductive work. [Work not directly connected with finished products.] We were very strict on that point, and I myself always checked up that nobody in the plant should do a job which would be connected with armament. As I have said in a large plant like a shipyard there are always plenty

jobs in the electrical shop, in other subsidiary shops, for instance, there was a department where we produced signals. That was called Tephone. There again we used prisoners of war.

Q. I didn't catch the last part after signals.

A. A shop where we produced Tephones.

THE INTERPRETER: It is a special sort of telephone apparatus.

WITNESS SCHROEDTER: There we used prisoners of war, for instance. We further used them in a shop where we processed sheet metal and in a shop where—I don't know whether the Tribunal will know that. We produced on automatic screw machines screws of a general nature, the type one buys from a screw factory. Further, we had our special department for the maintenance of our housing projects for Krupp workers, and for the maintenance of the extensive work camps situated in the outskirts of the city. Thousands were housed and employed there but none of them did productive armament work.

JUDGE ANDERSON: Well, it seems I have misunderstood you. I understood that your problem was to meet a deadline set by the navy for naval construction and that that is the reason why you were inquiring about prisoners of war. Now, if you were just going to use prisoners of war for the purpose which you discussed, how would any information on how they were going to be used help you meet your problem?

A. Well, one can always learn from other people's measures. As a member of the Vorstand one had the duty to look around and not always follow one's own head. That I always considered my duty, at any rate, to find out what other people did, how they did it better than we did, and that was the reason for my asking this question in Essen. I had to solve this difficult labor question in some way. And as I said, if I did not have sufficient civilian workers, I at least had the chance to select the suitable people from the foreign workers and train them for the semiskilled jobs and then take the German semiskilled and skilled workers from nonproductive work and put them on armament jobs and replace them in their jobs by the foreign workers.

Q. Now, it didn't require any training for skilled workers such as you saw at Essen to do the type of work you used prisoners of war for, did it, or did it not? I should have asked that in the form of a question.

A. Well, as I said, it was possible to do it differently from the way we did it because we could put some of the foreign workers together with groups of German workers, but that never showed good results because our experience was that the prisoners of war should be kept together. If we did that, we could put them to work with good results, but whenever you split them up and put them together with the German workers then the result was

no good. But at any rate, as I said, you had to put some equipment in and train them first, give them a schooling and school them in the right way. But that idea hadn't occurred to me, but that is what I saw in Essen, and therefore we copied it right away.

Q. Well, do I understand this was the plan, that by using the prisoners of war on nonarmament production—we will refer to it as that—that you were thereby enabled to take German workers and use them in armament production and solve your problem with respect to the navy in that manner?

A. We couldn't solve it entirely, but at least it improved the situation.

Q. But it was by releasing German workers through the use of prisoners of war that you were able to at least partially solve the problems that you had with the navy?

A. Yes.

Q. Is that what you went to Essen to find out about, whether to use that plan?

A. No, I didn't go to Essen for that purpose, but I did go in order to give my usual report, and in the course of the meeting, at a critical time when the Germaniawerft had particularly delayed to meet their terms, I started this question, and that was in 1941. Later on, this then developed by itself.

Q. I may have misunderstood you, about this special meeting, but now here is the note that I made when you were testifying. I was particularly struck with this, I must say to you frankly; that you recalled that in one of these conferences, at a particularly critical time arising from the question of the scarcity of workers, that you wondered how you were going to act in front of the members of the parent firm with respect to the employment of prisoners of war and foreign workers. Now, was that substantially what you said?

A. Yes, it was.

Q. What was it? Were you apprehensive as to how you were going to act before the members of the parent firm?

A. I could not afford to have the navy complain that the Germaniawerft was not doing everything in their power in order to overcome this lack of labor and shortage of material. Our part of this problem was to find out how this lack of labor could be overcome by training them, and our part of how to find it out was to see how Essen did sort of solve the problem, because, after all, I must say the navy demanded in order to get their boats that the firms should, for instance, help each other, for instance, that Essen should send workers to Kiel to overcome the production gaps, but Essen again was not in a position to do so, because

they were just as late with their production dates. They had the same difficulty as I, but the navy demanded that something like that should be done. They said, "You are a very large concern, and there you can shift your workers from one to the other in order to help each other," all these things do belong to the problem.

Q. Yes, but I must ask you one more question about that as much as I regret to prolong this, I confess that I don't know what it was in the nature of the problem, and I would like for you to tell me. What made you apprehensive about how you were going to act before the members of the parent firm? You were an official and a responsible official. Now, what were you apprehensive about?

A. I wasn't apprehensive, Your Honor, I wanted to do everything to see how other people solved this problem of the employment of foreign workers and prisoners of war, and how they incorporated these workers into their plant. Therefore, I wanted to find out what the others did, as I was quite sure in my mind that the Germaniawertf wasn't doing everything it ought to do, and I didn't want the navy to have a right to complain that there was still a deficiency, and that we weren't doing everything in our power, because all I wanted was to see how these people were trained, because if I have a skilled worker, he is more valuable to me than an unskilled worker. Therefore, I was very interested in this training method, because we didn't have anything like it. We only created that after I had seen it in Essen.

Q. Now, then you wish to be understood as saying the only information you wanted was how to train a worker, is that it, and that is the thing that made you wonder how you were going to act before the members of the parent firm?

A. Yes. The Aufsichtsrat—

Q. How long had you been in this business? Didn't you know how to train skilled workers, or train workers?

A. Yes, of course, I knew, but I didn't know how others did it, and I—one can always learn from others. I have never been very self-sufficient, and I have never thought that I knew everything, and I have always looked around in the world and tried whether I could learn something to my advantage, and I think my technical colleague thought the same. He probably always thought he had done it as best he could, but he was open to suggestion, and when I had seen in Essen how these people were handling the matter, I told him and that was an eye-opener for him and he saw every point.

JUDGE ANDERSON: All right.

JUDGE WILKINS: Judge Daly, I just have one other thought I would like to follow.

I believe I understood you correctly to say a minute ago in response to Judge Anderson's question that you did not employ prisoners of war directly in armament at Germaniawerft. Did I understand that correctly?

WITNESS SCHROEDTER: Yes, Your Honor.

Q. What do you mean by directly?

A. There is a difference whether a man makes shells or whether he installs electric cables somewhere in the office or in the workshop.

Q. What were you producing at Germaniawerft, ships, submarines?

A. Your Honor, yes, we made ships and Diesel engines and boilers, steam boilers, for electric plants. Those were our main products.

Q. Where were the Diesel engines used? In the ships?

A. Part of them, yes. During the war, they were used for warships. Before that, but also during the war, we also made spare parts and they were quite a considerable part of our general production. That was spare parts for Diesel engines, which had to be supplied earlier, during earlier years, and they had to be kept in good repair.

Q. I wanted to follow you. Do I understand then that you didn't use prisoners of war directly on armament, that means on the guns that went into the ships and the submarines and the engines that went into those ships?

A. Yes, everything that is not direct.

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CROSS-EXAMINATION

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DR. VORWERK (counsel for the defendant Pfirsch): Yesterday you talked about the difficulties which arose because of insufficient manpower. Who determined that?

WITNESS SCHROEDTER: The individual offices taking part in the work, which collected the data of these individual plants, and were forwarded to a so-called planning office. There compilations were made showing that these people were needed and were to be made available at the shipyard.

Q. What do you say when I insist that there was enough manpower but the deadlines were too short?

A. That is also possible. In the beginning when we couldn't see exactly what was going on, a certain amount of time elapsed—but without that certain lapse of time there was little danger of that.

Q. But in general we can say that if the deadline is in accord-

ance with the manpower available there is always enough manpower, isn't that your opinion too?

A. No. There are several factors which enter here. This was the time of a new start. People didn't work as much as one might expect.

Q. Could you meet these eventualities by extending the deadline to twice its previous length?

A. The navy would never have acceded to this.

Q. Why wouldn't the navy have acceded?

A. If the navy placed orders, it wanted them delivered promptly.

Q. That is no reason for you to build them rapidly, if you cannot possibly build them more rapidly.

A. I don't know what to say.

Q. If, say, the Norddeutscher Lloyd [a German shipping company] had approached your firm and ordered a transport ship for which it must set a deadline of 1½ years—and the Norddeutscher Lloyd insisted on receiving this transport in 1 year, would you then have changed your whole program and employed new workers?

A. I don't understand that.

MR. BRILLIANT: I suggest that the defense stick to eventualities instead of raising hypothetical cases with this witness—especially since these hypothetical cases don't have much relevancy.

JUDGE WILKINS, Presiding: He may answer if he knows. The difficulty is this witness hesitates to say yes or no. I might suggest, Mr. Witness, that if you don't know the answer you just say so. He may answer it.

DR. VORWERK: Can you answer this question, Witness?

WITNESS SCHROEDTER: This order would have been very slow. However, if we could not have met the deadline, the Norddeutscher Lloyd would have looked for another place for the placing of their order.

Q. Why didn't you tell the navy, "Go someplace else—go away from the Germania Shipyard; we cannot keep within this deadline"?

A. That is what we told them, even if not in those same words. However, we told them whether we could meet the deadline or not, and the navy made its decision on that.

Q. What did the navy decide?

A. It decided whether the order would be left with the Germaniawerft.

Q. In your calculations did you consider the desires of the navy?

A. No. What calculations do you mean?

Q. I mean the calculations about deadlines.

A. We had to. The navy sort of ordered us—and the only question was whether it could possibly be done.

Q. Why didn't you say, "We cannot meet the deadline"?

A. We said that quite often.

Q. Did you yourself say that—or who did?

A. I was the commercial man. The technical department said that.

Q. To whom did they say it?

A. Either in writing through the firm directly to Berlin to the navy, or one went to Berlin and negotiated concerning the deadlines.

Q. Well, did the navy say when they received word from you about this?

A. They were pretty angry because they thought they were just as experienced in shipbuilding as the Germaniawerft.

Q. Why did you finally give in to the desires of the navy?

A. Only by force. You must understand that the navy in Berlin, after the building-up of the German Navy had commenced, the navy determined what each shipyard was to produce—often without consideration as to whether the shipyard was able or unable to meet the program.

Q. You said, the navy determined what was to be done? Could the navy decide what to do with the Germaniawerft?

A. Not legally—but in the Third Reich it was that way. The shipyard management who didn't give in, risked being fired.

Q. Do you know whether at any time the navy ever threatened you?

A. Yes.

Q. Whom did they threaten?

A. They threatened me, and they emphasized it through a member of our supervisory board, the Aufsichtsrat,—which was the liaison between Krupp and the navy.

Q. What was the nature of the threat?

A. They demanded that—for instance—one shipbuilding manager would be substituted for another. They threatened later on the setting up of an administrator who would handle the shipyard in line with its own ideas.

Q. Who expressed this threat with regard to the administrator?

A. I don't know. I know I was told in Berlin that that was the intention.

Q. Who told you that?

A. There was one of our representatives in Berlin who learned about that during his visits to the ministries.

Q. What was the name of the representative?

A. His name was Mueller.

Q. Do you know his present address?

A. No.

Q. When did he tell you that?

A. During the war. I don't remember the date.

Q. Do you remember the approximate date?

A. About 1942.

Q. Do you know of any other threats which the navy made toward any of your works members?

A. No.

Q. Were you, as the manager of this shipyard, happy about the influence gained by the navy to set up the whole program?

A. No. Regarding efforts at hand, it was the navy; and later on, other parties. I could not feel at home.

Q. Why not? The shipyard was running very well.

A. But not to my liking.

Q. Did you ever speak about the preponderance of a naval construction program, and did you ever oppose it?

A. I cannot prove it in detail—but my attitude was this—I said yesterday that I did not want to see the Germaniawerft become a war industry. After the First World War our position in the merchant marine had been fought with great hardships and great difficulties, and I myself did not care a great deal about seeing the influence of the naval armament program taking place.

Q. Then I understood you correctly if I assume that the preponderance of the naval program with regard to the Germaniawerft was not to your personal liking, as well as of the firm of the Germania Shipyard; but, on the contrary, you opposed it, without success?

A. Yes.

Q. Can you tell us anything about the attitude of the parent firm in Essen toward this tendency?

A. The parent firm in Essen left the running of the business with regard to the placing of orders to the experienced Vorstand. That was the task of the Vorstand.

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Q. Mr. Schroedter, before the recess we had stopped at the question of what we should call war production and what we should not call war production. Throughout your life you have been active in industry, and partly, in industry as far as it deals with war production, and according to your view on the question of whether something is war industry and whether something is peace industry, can they be clearly separated in your view?

A. In my mind, yes, it can be. It is like this—direct war production is the production of war material by the person concerned,

while the maintenance of such works, the personnel of magazines and arsenals, and so forth, all the other personnel, have nothing to do with production, and this does not fall within the section by which we mean occupation with war materials.

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EXTRACTS FROM THE TESTIMONY OF PROSECUTION WITNESS KARL OTTO SAUR, CHIEF OF THE TECHNICAL OFFICE OF THE SPEER MINISTRY*

DIRECT EXAMINATION

MR. RAGLAND: Mr. Witness, will you state your full name?

WITNESS SAUR: Karl Otto Saur.

Q. What position did you hold prior to March, 1940?

A. For 12 years I worked in industry, and in 1937 to 1938 I joined Dr. Todt's organization or office where I stayed until the beginning of the war. Then I was drafted into the army for 5 months. In January 1940, I was recalled to Dr. Todt's office, and when his Ministry for Armament and Munitions was set up on 17 March 1940, I joined him there.

Q. Will you list very briefly the positions which you held subsequent to March 1940?

A. In this Ministry for Armament and Munitions, I was in charge of all technical standardization for ordnance production, and continued in this position until the death of Dr. Todt on 18 February 1942. When after his death his duties were assigned to Dr. Speer, I became chief of the technical office, which, first of all, was also in charge of looking after armament supplies and army supplies.

On 17 March 1942, I also took charge of production for locomotive and railway car production.

On 5 July 1943, I was placed in charge of ship production, and on 1 March 1944, I took over the fighter-plane production.

On 1 August 1944, I took over the whole of the airplane production. On 21 August 1944, I also assumed charge of engine and machine production.

On 12 November 1944, I took over the producing and processing industry, steel construction and electrotechnical production, and I also took charge of general armament ordnance supplies. In addition to my position as chief of the technical department on 1 March 1944, I also became chief of staff of the newly set up

* Complete testimony is recorded in mimeographed transcript, 8 June 1948, pp. 11798–11869.

fighter staff [Jaegerstab—organization to speed up fighter-plane production], which was under the direction of Milch and Speer.

On 1 August 1944, I became deputy chief and chief of staff of the Jaegerstab, which was now transformed into the armament staff.

Q. Am I correct that throughout this entire period, that in addition to the other positions which you held, that you also held the position of chief of the technical office of the Speer Ministry? Is that correct?

A. Yes, I was deputy to Speer in all technical matters.

Q. Now in this position did you have to do and to deal with programs for war production?

A. Yes, I did. I had to work in great detail with the task of the technical execution of the armament programs for various districts, and to see that the various quotas were kept up.

Q. In this connection did you have occasion frequently to consult with and to deal with the Krupp concern and its officials?

A. I repeatedly was in contact with a number of officials of the Krupp concern in matters dealing with armament and tank production, and the various questions of design connected with it, since my office dealt not only with production but also with designing.

Q. Will you name a few of the officials of the Krupp concern with whom you dealt?

A. I had to do with Mr. von Bohlen, with Mr. Mueller, Mr. Houdremont, Mr. Korschan, and with Mr. Eberhardt. I had contacts with all of them, but mainly also with the deceased Dr. Goerens.

Q. How would you characterize the attitude of the Krupp concern toward participation by it in production programs? War production programs?

A. As can easily be understood, Krupp was one of the most important partners in the various war armament sectors, together with the other large firms, Rheinmetall, Skoda, and numerous other large concerns. Of course, with the increasing standardization and the increased introduction of mass production, the main production of armament in Germany was eventually transferred to smaller and medium-sized enterprises. In order to explain this, I would want to give you some examples. For instance, the large scale mass production of many weapons—

Q. Just a moment, Witness, I will ask additional questions asking for examples. Before we get to examples, could we limit ourselves to a few preliminary questions? Would you say that the Krupp concern was desirous of and sought to participate in the war production programs?

A. Krupp was included in most of those programs in a leading position.

Q. And did Krupp seek to participate in those programs?

A. Yes.

Q. And did it seek out orders in excess of its ability to produce?

A. I don't think that they sought orders beyond their capacity, but of course otherwise they sought orders within the framework of the whole war production.

Q. Without going into any great detail at the moment, can you cite an example of instances where the Krupp concern on its own initiative sought out production orders, or sought to participate in expansion programs?

A. The most significant example which has been mentioned before, and which has been discussed at length, is the increased production of light field howitzers which was in connection with the Markstaedt plant where Krupp, against our own suggestions, insisted on an extension beyond the existing production installations in the plants Schichau in Elbing, Menk and Hambrock, Skoda in Pilsen, and Wolf Buckau in Magdeburg. In that instance Krupp suggested that the increased demands of Hitler for production should be realized in a new plant to be set up by Krupp at Markstaedt. We and the main ordnance office had strong doubts that such production could be safeguarded by the construction of a new plant. Our doubts were two-fold—first, because the costs for a new factory are rather higher than those necessary for the extension of existing factories; secondly, the reason for our doubt was because such a new construction or the construction of a new plant takes much more time than the extension of any existing buildings. In this connection we came to have long discussions which dragged on for weeks and months, discussions between the Ministry and its various offices, and the offices of the Army Ordnance Office on the one hand and Krupp on the other hand. We tried to make our point of view heard; whereas Krupp, on the other hand, tried to convince us of their position.

Q. Let me make sure I got your testimony. Do I understand that in connection with the establishment of the plant at Markstaedt that the responsible government agencies were opposed to the establishment of that plant? Is that correct?

A. Yes.

Q. And do I understand that on the other hand the Krupp concern was desirous of and sought to have such a production plant, or such a plant established at Markstaedt?

A. Yes.

Q. And there were, as I understand it, long discussions and

long arguments between the governmental agencies on the one hand and the Krupp concern on the other hand, is that correct?

A. Yes.

Q. Do I understand that against the opposition of the responsible government agencies that the Krupp concern was able to prevail in its viewpoints?

A. Yes, for a short period of time it looked as if we would succeed in making our point of view heard, and I myself, after 5 February 1942, when the suggestion first came up by Krupp to fulfill the program by building the new plant—from that time until June—I repeatedly tried to counteract that suggestion, and in June, during a meeting with Speer, I once more emphasized that in spite of the orders placed in the meantime, and the already started installations, that in view of the fact that all new construction had been heavily rationed in Germany, it was still possible for us to stop the construction of this new plant, and in spite of the loss of time, to adopt the program I had suggested by which old factories would be enlarged, and following this policy we would still get earlier production than under the suggestion of building a new plant. However, one argument was brought up which was bound to convince us, and actually did convince us. That was the necessity for setting up an emergency plant for the main Krupp plants which were located in the West, and were therefore vulnerable to air raids. Now this argument caused Speer to give me the strict order, in the presence of Mr. von Bohlen, at Hitler's headquarters on 8 August 1942, to start now and to expedite the construction, and from this time onward, based on those arguments, I supported the construction of that plant with every means at my disposal in order to get the program underway as soon as possible.

Q. Do you know whether the Krupp concern sought the aid of Hitler in order to have its view prevail, rather than the views of the responsible government agencies, which views were in opposition to the construction of the plant at Markstaedt?

A. I have already mentioned this order which was given me at headquarters. From the way the command was given and from the personal note which Speer attached to the order, I had to conclude the following: There had been a meeting at Hitler's office with officials of the Reich Association Iron, with regard to an increased production. At that meeting the Vorstand of the Reich Association was present; that is, the gentlemen, Messrs. Rohland, Roechling, and von Bohlen. At the conclusion of this meeting Mr. von Bohlen went to see Hitler and together with Speer came from Hitler's headquarters to the park area of Rastenburg where I was walking around with various other gentlemen. Speer

approached me, in the presence of Mr. von Bohlen, and informed me of the order that Hitler had now definitely issued that the construction had to be carried out and that we had to do everything in our power to give him all the help he needed. Since up to that time, whenever Krupp had told me that I would have to help them, Speer had always been one of the associates with whom I had, up to that point, discussed all the pros and cons of that program, and since this associate of mine now suddenly had changed over and given me this order, I had no choice but to conclude that this was the best thing to do, but mainly I had to conclude that this was an explicit order from Hitler which we had to follow.

Q. And did you also conclude that the reason for the Hitler order was that Hitler had been persuaded by Alfried Krupp in the meeting held shortly before your discussion with Speer?

A. I don't believe it was really necessary for Krupp to influence Hitler in Krupp's favor, because Hitler himself had a great admiration and weakness for the name Krupp, and the family Krupp as such, because to repeat his own words—that was, "the weapon forge for all Germany," and Hitler supported Krupp wherever he could, and any plans which might indicate the extension of Krupp's hardly needed any recommendation at Hitler's office, but they were always very willingly supported by Hitler and accepted by him. In addition there was a great support by Gauleiter Hanke, who was very interested in having such a plant set up in Silesia under his own jurisdiction.

JUDGE WILKINS, Presiding: I didn't get the name of that last Gauleiter that was mentioned.

WITNESS SAUR: Hanke. H-a-n-k-e.

MR. RAGLAND: Well, did the government agencies have any difficulties due to the closeness between Hitler and the Krupp concern?

A. May I ask that the question be repeated? [Question repeated.] I wouldn't say we had difficulties, but let me say our hands were tied very often. The relation between Krupp and ourselves was different from our relationship with other firms because of that unique position which Krupp held. I would like to quote another example. For instance, the Hermann Goering Works were in a similar position. If a plant is in such close contact or association with the highest leading officials of the government, then it is much more difficult to make one's point of view heard in such plants as in other plants which had no such connections.

Q. You would suggest that rather than the government agencies controlling Krupp in his activities, that the tendency was for

the Krupp concern to control and direct the activities of the government agencies. Is that what you are suggesting?

A. Well, that is putting it too strongly, because we, of course, did everything also to maintain our position and to make our point of view heard, and from the example which we discussed here—this example of Markstaedt I think will show that up to a certain point we could still maintain our opinion as against Krupp's opinion, if it was the better way. I couldn't say that Krupp reigned over me, but on the other hand perhaps one might say that I took a stronger position concerning Krupp. Such matters fluctuated according to the conditions and the importance of the matters concerned, but at any rate the position was always slightly different with regard to Krupp than it was with regard to other plants.

Q. Now once the Markstaedt project got under way, did you have any—

A. The Markstaedt project was already—

Q. Pardon me, just a moment, if you will, Witness. Let me restate my question—Was the Krupp concern successful in the carrying-out of the project of producing light field howitzers at Markstaedt?

A. From the time the order was given, Markstaedt was built with every support anybody could give. While, of course, there were even for Markstaedt certain difficulties to be overcome with regard to installation of machinery and supply of labor and those general difficulties, but as compared with other building projects, Markstaedt had top priority among all others and had a first-ranking position in all official agencies. The mere structural development also had to overcome some difficulties, but it met its first date, on 10 April 1943 insofar as on that day the inauguration of the plant took place and that was celebrated by handing over the first four light field howitzers. From that point onward, however, there began the path of sorrow in the production which extended for 6 months from April to September, and resulted in the fact that there was no important large-scale production of those guns.

Q. Was it necessary for you to appoint someone to take over the technical direction at Markstaedt in connection with the production of light field howitzers?

A. After the program had fallen back for more than 6 months, that is the production which we had been promised and for which we had given our support, I found myself in a position in the fall of 1943 of having to form the Arbeitsgemeinschaft der deutschen Waffenindustrie [Working Committee of the German Armament Industry], which I decided upon after a visit at Mark-

staedt, and after that I found it necessary to hand over technical supervision and management of that part of the production that dealt with light field howitzers to this body [the Arbeitsgemeinschaft] which consisted of five leading experts in the gun industry, but then with the strong support of the Krupp firm, represented by Dr. Reiff, we succeeded in producing the quota of at first 400 guns within a short period, so that, as early as April, 1944, by request of Krupp, after fulfillment of these contractual agreements, the technical direction of production was returned to the firm of Krupp.

Q. Prior to the handing back of the technical direction to Krupp, did the Krupp firm seek to have you turn back such technical direction?

A. Yes, repeatedly.

Q. Who acted on behalf of the Krupp concern in these activities?

A. All the leading executives and officials because it was a question of prestige for a plant like Krupp and a firm like Krupp to overcome as quickly as possible this rather awkward position, so there was a personal meeting between Mr. von Bohlen and Mr. Speer in which it was discussed that all rights and duties should be transferred back to Krupp.

Q. I asked you earlier and I want to make sure that I understood you concerning the attempts of Krupp to get production orders, and I'd like to ask you whether the Krupp concern sought out production orders in excess of its capacity to produce?

A. Well, you might interpret this as one example in the case of the light field howitzer production because that definitely was a suggestion of the firm of Krupp to produce a number of light field howitzers for which they did not have the capacity.

Q. Do you recall any other instances where Krupp sought to participate in production programs and where the government agencies felt that Krupp did not have the capacity or for any other reason should not produce—should not participate in a production program?

A. The case which I have been asked is slightly different. I might refer to the locomotive production. When Hitler made his rather unusual demand on 6 March 1942 to increase the locomotive production by five times during the war years, and when he made this demand to the locomotive industries Director Degenkolb who was to execute this program attempted by short term extention of all locomotive producers in Germany to fulfill that quota. Krupp, of course, had a large part of production because of their capacity for locomotive production; however, because of the comparative difficulty with Krupp—which can only be relative because we had difficulties, of course, with all other plants—

those difficulties led to the fact that Mr. Degenkolb felt himself obliged to write to Goerens that either Goerens would fulfill his quota or else Degenkolb would have to take away this quota entirely from Krupp and place it with some other plants although this even might cause difficulties. After that very strict reprimand of course, Krupp, as could not otherwise be expected, took it upon themselves to overcome all the bottlenecks, and of course, take over their quota in full and to produce accordingly.

Q. Let me see if I get this exactly. This was an instance in which the government agencies desired to transfer a production order from Krupp to another concern, is that correct?

A. Yes.

Q. And the Krupp concern objected to the transfer of the production order to the other concern, is that correct?

A. Yes.

Q. And here again the Krupp concern prevailed in its views over the views of the government agencies, is that correct?

A. Well, yes, but together with the fact that they actually fulfilled the order because the order was really placed by the locomotive committee, but in the beginning the difficulties were such that it seemed hopeless that Krupp could fulfill their quota.

Q. Mr. Witness, do you know of any instances where industrialists were put in concentration camps because of lack of cooperation in the war production programs of the government?

A. During the last 3 years I have repeatedly been asked about this point. In spite of all my endeavors and because I always get involved in this discussion, I have never succeeded in finding a single industrialist who, because of nonfulfillment of his production program, had been put into a concentration camp.

MR. RAGLAND: No further examination.

JUDGE WILKINS, Presiding: Any cross-examination?

CROSS-EXAMINATION

DR. KRANZBUEHLER (counsel for the defendant Krupp): Mr. Saur, who in Germany was responsible for the entire war production?

WITNESS SAUR: The Minister for Armament and War Production.

Q. How did he fulfill his responsibility?

A. In the field of production by the self-administering organs in industry, and on the administrative side through the Reich Ministry for Armament and War Production.

Q. Now to take a definite case, how would an order be placed with a firm?

A. The military demands would be made known by the mili-

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tary authorities via the military ordnance offices and the general staff or the armament staff to the ministry. After the total programs had been properly considered, the reasonable demands would be made known by the ministry via its offices to the various main committees. The main committees, through their own organizations in the individual fields would then work out their own dispositions and have their planning worked out through the special committees or the special rings and associations.

Q. That means the initiative for the distribution of orders was mainly with the Wehrmacht offices?

A. Yes, the initiative was with the Wehrmacht.

Q. But the demands of the Wehrmacht were transmitted to the industry via the Armament Ministry?

A. Yes.

Q. Did individual plants who in this way received certain quotas have the possibility to refuse the taking over of such quotas for any other but perhaps technical reasons?

A. At this moment I cannot recall any case of a refusal. I can imagine that apart from technical reasons there may be convincing reasons that may justify a refusal.

Q. But can you picture such a case?

A. Well, that depends on what you mean by technical, and what you include into technical difficulties. If you take a large scale view of it, then you can almost include anything, but if you take a smaller view of the technical possibilities, then I am quite sure there can be reasons which would justify a refusal.

Q. What do you mean for instance?

A. Well, for instance transport difficulties, or vulnerability in air raids, or something like that. I am quite sure that if you really look into the matter you can find some outside points which might have led to the very heated arguments about the acceptance or nonacceptance of such an order.

Q. Now, can you imagine or have you ever experienced a case that an armament firm refused an order because it would not lead to the sort of mass production they were out for?

A. Yes, I can imagine. Of course, in the limited time I have had, I could not prepare myself properly. Otherwise I could have spoken here at great length on such cases and given you numerous examples. Of course, there were a great number of cases where we had very long and difficult negotiations and discussion with the firm in order to find out whether their arguments were justified and whether we would have to forego placing an order with them which we had meant to place with them, but after proper investigation had come to the conclusion they couldn't execute it. I know, of course, numerous cases where it

came to weeks and months of negotiation on the questions as to whether a firm should take over an order and whether it would be reasonable that we should not demand it of them not only for technical reasons but for all sorts of other reasons.

Q. What kind of other reasons?

A. Well, for instance, financial matters. The financial question played quite an extensive part in many firms, and particularly in the initial stages of the war. We, of the ministries, found that it was a more difficult question than during the time when we had cost-plus prices where it was possible for firms to take over orders at high costs as against later on during the war, particularly on 6 November 1941 when Goering issued a decree according to which all prices were fixed for all armament orders.

Q. Can you quote an example where the firm with regard to the price calculation refused an order which was placed with them by the Armament Ministry?

A. At this moment I can't quote a definite case, but from those arguments which I have already quoted on the price calculation, we at the ministries and offices had to rearrange our program repeatedly. We, of course, were not so interested in giving a large profit to one firm but we were interested in a maximum output.

Q. I don't think the answer is quite clear to what I asked. I repeat. Was it possible for any firm to successfully refuse an order for financial reasons?

A. If it could prove its case and bring reasonable justifiable arguments, then they could.

Q. In other words, you mean if a firm stated to you, "Mr. Saur, that on such and such an order, we would not make sufficient profit," then in the case you would say, "Yes, in that case, you don't have to accept the order."

A. No, never.

Q. Oh, that is what I thought. So, for you, that wouldn't have been a reasonable argument?

A. No, that wouldn't have been an argument.

Q. Now, how do you explain the difference between the two answers?

A. Because there may be cases where a firm can prove that they have to work at such high overhead that according to the original way of payment, of course, they have to be given a higher price for production than another firm might have produced according to their production possibilities.

Q. Please continue.

A. I am now thinking of the first period of the war particularly when ordnance production was extremely reduced and when

we had no interest in giving orders to firms which could only be executed for a very high price according to regulations in existence then and when we could get much better prices from other firms.

Q. Mr. Saur, you are now mentioning the period before November 1941?

A. These conditions extended on large parts of industry right into 1944 because when the Ministry for Armament and Production on the first of March 1944 intervened in the airplane production by setting up the Jaegerstab, the airplane production sector placed 90 percent of all orders according to purchase cost price. That, in my opinion, was a completely impossible interpretation of the regulations for the economic fulfillment of orders, and it was an experience which incidentally in America was made in almost a parallel way and which led to extensive arguments.

Q. Mr. Saur, I understand your statements to this point to the effect that you would not place an order if the costs were too high for the Reich because the Reich had to pay the entire costs even at an uneconomically working firm. Now, my question goes to the effect, did a firm have the possibility to refuse an order placed by the Armament Ministry on the ground that they would not make enough profit on it?

A. No, they could never make that argument, as I have already stated. If, however, they could prove that with the arranged price or fixed price they could not work, then we had to find a new basis for that firm, or we would have to leave that firm out of our orders.

Q. At any rate, the procedure is completely different from ordinary economy where any firm can refuse orders which they don't like?

A. There can be no doubt about that. Now, I don't think that any of those participating here or present here can have any doubt that in times of war, no matter under what kind of government the war is waged, it is necessary to direct production and consequently in any state there will be a difference in the placing of orders and the carrying-out of orders for war production, but the important point is not so much the comparative conditions under peace and war.

Q. Mr. Saur, I did not ask you for those, and I am not particularly interested in those at this very moment, but I would like to ask you, did this State pressure for the fulfillment of orders only become evident the moment the order was placed or did this State supervision and State coercion extend to the whole period under which the order was being executed so that even during that period there were numerous individual interventions?

A. This is not the place to discuss the question of this self-responsibility of German economy and industry, and the time is too short to make the necessary statements in order to describe properly the system under which orders were placed in Germany and under which orders were executed and were based.

Q. Mr. Saur, I asked you a very definite question. I will be grateful if you would attempt to answer it. My question is, was there, during the period of the fulfillment of an order, any intervention by the State toward the firm?

A. Well, I think so. I think I shall have to refer back to the sentence I had just started. The offices and officials which during the war supervised and directed the placement of orders were the organs of the self-administration in German industry and economy on the basis of minute issues, decrees, regulations, and mainly also based on the speech of Minister Speer on 9 June 1944 in the Industrial Club in Dortmund. This is almost a legal question which I am not in a position to answer, that is, whether the organs of self-administration in industry are agencies of the State. If they are such, then I must answer your question in the affirmative; but if it is as the name indicates, such organs belong to the self-administration of economy and industry and therefore are not State offices, and then, consequently I must answer your question in the negative.

Q. Now, from whom would these organs receive their directives?

A. They would receive directives from the Reich Ministry for Armament and War Production.

Q. So, they carried out directives issued by the State officials?

A. Yes, but on their own responsibility.

[Recess]

Q. Witness, before the recess we discussed the committees, the so-called organs of the self-administrative industry, and I ask you whose instructions were binding on these committees?

A. Instructions were issued by the Reich Minister for Armaments Production.

Q. Were these general instructions or were they instructions for particular cases?

A. It depended on the nature of things. Generally speaking, these were general instructions and it was the responsibility of the committee concerned to carry out the implementation in detail, as numerous directives disclose. Besides the speech mentioned by the Reich Minister Speer on 9 June, there were most detailed instructions for committees and rings and their jurisdiction in general and in particular. The decision of the leading

executives of the armament industry of 18 February 1942 is published in the *Information Gazette* of the Reich Armament Ministry in March 1942, and the Speer directive of 20 April 1942, concerning the tasks of the committees and rings, and the instructions by Speer issued 5 June 1942 for the committees and rings.

Q. Mr. Saur, there is no use naming instructions which are not available to the Court.

A. I am not informed as to what directives and decrees are available to the Court.

Q. I didn't ask you about it either.

A. I consider it my duty to refer to those decrees and directives which would permit the detailed and exhaustive treatment of the questions you ask me.

Q. I ask you a simple question, to wit, did the State enter into the implementation of individual tasks. Just a minute, I'm not finished—and you answered that it depended on whether the committees were considered organs of the state. Meanwhile you have explained that these committees acted on orders of the State. I now ask you again, did the State interfere with the orders if it liked?

A. Generally speaking, not; generally speaking the responsibility after the general order was transmitted to the committee, was the committee's.

Q. But in some particular individual cases it did?

A. In particular cases, depending on the nature of things, if the necessity arose, the State did interfere.

Q. That is to say, the State interfered when it considered it necessary.

Did you understand my question?

A. Well, in this case, too, it isn't simple either to give a brief answer.

Q. I'd appreciate it if you tried.

A. The principle pursued by Speer with complete singleness of purpose was to avoid getting involved in details. These principles of Speer's are clearly revealed by the individual decrees and directives, and I named them for that purpose; and the principle was to let industry determine for itself in its own administration just how and where the order was to be carried out.

Q. And this principle of Speer's was shared by you?

A. Yes.

Q. Then I may show you as an example a teletype of the special committee for tank production, dated 27 October 1943, Ihn Document 470, Defense Exhibit 269,* in Ihn document book 2

* Reproduced above in this section.

on page 35. It is addressed to Krupp in Essen and concerns the manufacture of "Maus," ['Mouse' was the code name for a super-heavy tank] I quote: "Mr. Saur, chief administrator, has decided that only one 'Mouse' machine will be constructed in your plant. All manpower and machines and installations allotted for the manufacture of the 'Mouse' project will at once be used for the ordered increase of the remaining manufacture of tanks. The already prepared material shall be used for the ordered increase of the assault gun. I therefore ask you to inform me how much material you have prepared for 'Mouse' manufacture and what sheet metal you have for the plates which you could transfer for the production of assault guns. The material must be transferred at once to the firm of Harkort Eicken."

Would you say that this is a general instruction?

A. May I ask you, is it by the special committee for tanks?

Q. Yes, it is from the special comittee for tank production.

A. Well, the whole matter is a clear case. I think Dr. Mueller himself would remember this case. When Hitler decided that the mouse should be manufactured in only one type, and this was by no means my decision but Hitler's decision, thereupon the special committee concerned effective immediately made disposal of the production facilities. That was the purpose of this decree, namely, the mouse production was dropped in order to speed up more necessary production of the assault guns; and the special committee took over the duty resulting from this decree, in order to transfer the other production facilities to the production of assault guns.

Q. Therefore, Mr. Saur, we may conclude, firstly, regular current production at Krupp was stopped at Hitler's orders; secondly, the capacities released by that order could not be utilized by Krupp as it desired, but immediately a new decree was issued as to how this capacity was to be utilized.

A. Of course, by the special committee concerned—that is clearly revealed.

Q. Quite right.

A. For the rest, this was not just an ordinary case, but if I may add an explanation, the mouse tank was one of the most striking pieces of armament produced during the war, by any nation. It was a very heavy tank of 180 tons, which had never been built before, and that this unusual decision would be made by the chief of the State himself would not only happen in Germany, but in all nations.

Q. I don't want to prove that Hitler interfered in all these cases, but simply that manufacture went on under the constant orders of the State.

A. As I said before, in war production that is a matter of course.

Q. Then we agree on this, don't we? Mr. Saur, a number of questions regarding Markstaedt. Will you explain to us what program was concerned in Markstaedt?

A. The history of the origin of Markstaedt begins, as it became known to me, on 5 February 1942 with a suggestion to create a plant for the mass production of light field howitzers. Later this idea was augmented by two additional ones; (1) an extension of a general emergency plant, in cases of loss of production in other plants; and (2) additional orders in the 12.8 PIK, STUKA, and torpedo tubes production. Then numerous discussions took place with regard to the question of Markstaedt. At the beginning it was to be basically a steelworks such as forges, foundries, and the rest of the preliminaries, and so on up to final production. These ideas, however, were only discussed in part, and of them only a part were put into realization.

Q. Your personal knowledge begins with February 1942?

A. Yes.

Q. Do you know anything about a discussion with Hitler and Gustav Krupp von Bohlen concerning the necessity of an emergency plant for Essen?

A. On 8 August 1942—

Q. I mean Gustav Krupp von Bohlen. You are mistaken.

A. I don't know anything about that.

Q. You know nothing about it and never learned about it later?

A. It is possible that I learned about it, but I don't remember any details of such a discussion.

Q. What do you know about the events of August 1942? Weren't you told by Speer that Gustav Krupp von Bohlen, at the request of Hitler, had to promise to set up an emergency plant for the Essen plants?

A. These discussions in the Reich Chancellery, in the headquarters in Vinitsa, merely dealt with the discussion of Alfried Krupp von Bohlen's with Hitler, which took place immediately prior to this, in connection with the iron discussions, after which Mr. von Bohlen, together with Speer, came to me with a draft, in order to submit Hitler's final orders to me.

Q. Do you know anything of a Hitler decree of March 1942?

A. Yes, on 5 and 6 March 1942, and on 14 March, I mean 14 April 1942, weapon discussions were held at Hitler's place, the minutes of which have been presented in the IMT Trial. I don't know if they are in this trial. At any rate, during these conferences the arms programs for 1942 and the future programs were discussed. During these conferences the important topics were the expansion of light and heavy antiaircraft and light field howitzer production. The suggestion of the Armaments Committee, first

represented by Dr. Mueller, later by Director Tix and Colonel Leyers of the Army Ordnance Office—the suggestions of these people were to expand the light antiaircraft production and to set up mass production plants in Kuensebeck in connection with the Duerkopp plants in Bielefeld, and for the heavy antiaircraft, to set up a mass production plant in Katowice, in connection with the new mine taken over by the I.G. Farben in Katowice, and the light field howitzer plant was to be in Markstaedt. At that time, pursuant to the wishes of Dr. Todt, 3 days prior to his death in February 1942, the same suggestion entered into the discussion with Hitler.

Q. And then in March 1942, a Hitler order was issued to build the Markstaedt plant?

A. The Markstaedt plant was built pursuant to and within the scope of the schedule for armament production, which in April became the basis for the approval of arms production. In other words, in April the provisional building approval was given for Markstaedt. However, until June actually until August these negotiations dragged out until a final decision was made by the Ministry.

Q. The planning and building approval for Markstaedt took place within the scope of a general production program set up by Todt?

A. The program was not set up by Todt. It was only discussed by Todt in the conference mentioned of 5 February because on 8 February Todt died in an air crash, and then it was taken over by Speer in the conference on 14 and 15 April and it was presented by the appropriate officials in the Armament Committee.

Q. You said that you were of a different opinion as to the utility of the program?

A. Yes.

Q. And you then related that in your opinion, Mr. von Bohlen discussed this question with Hitler?

A. Yes.

Q. How do you know that?

A. Because Speer told me officially that it was an order of Hitler, on the basis of and as a result of the conference with von Bohlen. However, I cannot state, since I was not present, whether Speer was present during the conference, or not. At any rate, together with von Bohlen, he left Hitler's house and informed me officially in Hitler's name of the decision reached.

Q. Mr. Saur, do you really remember that Mr. Speer referred to a conference between Hitler and Mr. von Bohlen?

A. Yes, because Mr. von Bohlen was present when he informed me of this and requested me emphatically to drop my opposition

to the plan of which he knew, and on this occasion I promised him to do everything in my power. Since there was no other possibility, I promised to carry out the program as scheduled.

Q. I am very anxious, Witness, to prevent you from drawing any conclusions from a discussion you had with Mr. von Bohlen but rather, I want you tell me quite clearly did Mr. Speer state to you that the decision of Adolf Hitler was a result of the conference between Hitler and Mr. von Bohlen?

A. Yes.

Q. When was that?

A. 8 August 1942.

Q. There is no doubt about that, is there?

A. In order to be more precise, it was in connection with a discussion at Hitler's place about iron production, in which Mr. Roechling, Mr. Rohland, and Mr. von Bohlen took part.

Q. Then, Mr. Saur, in order to refresh your memory I must show you a letter dated 4 July 1942, which was presented in Ihn document book 2, as Ihn Document 816, Defense Exhibit 271,* on page 37–38 of the document book. It is a letter dated 4 July 1942 addressed to quite a number of officials, such as Colonel Leyers, Director Purucker, and others, signed by you, Witness, and it says, I quote—

> "Reich Minister Speer, on the basis of the memorandum of 29 June 1942 of Mr. Desch, yesterday inquired after the result of our shutting-down action. Before that I reported to him and told him on this occasion again that we all agreed that the Markstaedt plant can be shut down. Mr. Speer has now decided finally that this plant should be constructed anyway, since it is in compliance with an express request by the Fuehrer to have an emergency plant in the East."

Then follow a number of details about the schedule. This letter is dated 4 July 1942, and is a final decision by Speer.

A. That is not in contradiction to my statements. I don't know what your statement about refreshing my memory is to mean. As I told you this morning, I once more went to Mr. Speer in July 1942 to stop this construction which had already been started, because I was convinced that this construction was inexpedient.

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EXAMINATION BY TRIBUNAL

JUDGE ANDERSON: Witness, if I understand, or have understood you correctly, this production quota at Markstaedt was originally promised by Krupp for 400 howitzers a month?

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* Reproduced above in section VIII B 1.

WITNESS SAUR: Yes.

Q. And that from April 1943 until September they had an opportunity to meet that quota and didn't do so, and as a consequence, in September you had to make this decision to get something done about it?

A. Yes, that's right.

Q. Now, during that period, from April until September, had you made any efforts or had Speer or anyone for you—I assume it was your function—

A. Yes, we had negotiations with Krupp every month. We always got the promise that now they had overcome the difficulties or would overcome the difficulties, and by mobilizing even more highly the reserves from the mother plant at Essen, Markstaedt would be put in a position to meet their quotas, but we were always disappointed and the promises were not kept, and that went on until the beginning of October.

Q. Now what the Tribunal is interested in is if meeting this production quota was a primary concern, why did you put up with this from March until September 1943? Why didn't you put the officials in a concentration camp?

A. As I said this morning, in answer to the question of the prosecutor, in the last 3 years I have not been able to find a single case, or to hear of a single case in which a man, because he did not meet a production quota, was put into a concentration camp.

Q. Let's put it this way—what I am trying to get at is, I understand the real reason why Krupp officials did not meet the production quota originally, in your opinion, was not due to any lack of willingness on their part, but a lack of technical experts in mass production, on a large scale?

A. Yes.

Q. Well, now, was there any threat by any government official to put any of them in a concentration camp?

A. No. What I did, on the other hand, was to send Krupp the very best expert on the weapon production. He was a man from the A.E.G.* and his name was Siegmann. I arranged for him to join Krupp so that they should be more easily able to overcome the difficulties. It took a lot of persuasion to make the firm accept such a man, because the prestige of such a large firm would not allow that outsiders should provide their experts. With the help of General Director Voegler of Vereinigte Stahlwerke, I was asked to bring about a contact between the A.E.G. and Krupp, so that Siegmann could be borrowed from the A.E.G. for this

* This is the abbreviation for Allgemeine Elektrizitaetsgesellschaft, Germany's largest combine in the production of electrical equipment.

special task. I approved of the suggestion and only then was it possible to smooth out the path for Mr. Siegmann to take over the task in the Krupp concern which he did in October. First of all, he took over duties within the working cooperative, and later on in the Krupp concern, direct.

Q. Did Krupp continue to meet the production quotas after the concern had been turned back to them in September or October? No, not September or October. It was finally turned back to them after your expert was put in there and demonstrated how to do the job?

A. Yes, in April, on the explicit demand of the firm, I think it was even before the quota was fully met, production was returned to Krupp. Mr. von Bohlen came personally to Mr. Speer and asked for it, and Mr. Speer inquired from me whether this could be done, that the transfer should be carried out earlier than was originally intended, and I think negotiations took place in March for transfer to be carried out on 1 April 1944.

Q. Getting back to your proposition, the production of these howitzers from April to September—that was an important program, I assume?

A. Yes, it was a very important program.

Q. Why was it, if the Krupp officials were as concerned about it as your cross-examination seems to indicate, about the pressure that was put on industry, why was it you fooled with them from April 1943 until September in order to get the production up? Could that have been accomplished by threats sooner than that?

A. Minister Speer was against any kind of coercive measures in industry and proved his attitude more than once, because he did not want to leave the system, devised by himself, of the self-reliability of industry a mere theory. He had always been convinced that he would succeed by using the most capable men in industry and giving them responsibility and the possibility of recruiting the other people from their own ranks, and settling all the preliminaries and prerequisites essential for such production. As I said, Mr. Speer was convinced that such a method would eventually succeed, even if there were some incidental disappointments. The only goal was to achieve total production. He more than once laid those principles down in writing, and in his efficiency report of 27 January 1945 he proved his principles by showing that the average German war production of tanks, weapons, munitions, cars, railroad cars, airplanes, ships, from the year 1940 until the year 1944—

Q. Wait a minute. You are wandering and the time is short. There are only one or two more questions. The sum and substance is that Speer was absolutely opposed to coercive measures,

as I understand your answer. Now, did you know Gustav von Bohlen?

A. I met him on two occasions. The first was his seventieth birthday—

Q. Do you know whether he had any influence with the high government officials during this period?

A. I cannot judge that in detail, because the two occasions on which I met him were of a more personal nature, and not business.

Q. You don't know. In any of the numerous efforts that you made with the Krupp officials about production, conferences you had, did any of them object to your superiors, Speer, Hitler, or anybody else, and express any fear that they would be put in a concentration camp as a result of your activities?

A. I know of no such case.

Q. Did they ever evidence any apprehension about that or say to you that they were being coerced by fear?

A. No, in no way.

Q. Now, one further matter. You mentioned a visit which you made, I think to Breslau, at the insistence of Hitler, for a conference with some officials of the Krupp firm, is that correct?

A. Yes, on 15 October.

Q. October of what year, Witness?

A. 1943.

Q. What Krupp officials did you meet there?

A. I know Mr. Reiff was there, but I cannot say in detail who the others were.

Q. Now, what was the purpose of that meeting?

A. The setting-up of the working committee for the German weapons industry.

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3. AFFIDAVITS OF DEFENDANTS ALFRIED KRUPP, MUELLER, IHN, LEHMANN, KUPKE, AND LOESER

TRANSLATION OF DOCUMENT NIK–11231 PROSECUTION EXHIBIT 1247

AFFIDAVIT OF DEFENDANT ALFRIED KRUPP, 3 JULY 1947, CONCERNING EMPLOYMENT OF FOREIGN WORKERS, PRISONERS OF WAR, AND CONCENTRATION CAMP INMATES IN KRUPP PLANTS

I, Alfried Krupp von Bohlen und Halbach, Nuernberg, having been warned that I am liable to punishment if I make false statements, do hereby under oath declare, of my own free will and without duress:

1. I was, as far as I know, a regular member of the Krupp Direktorium since 1936, possibly only since 1937 or 1938, and this position of mine, as far as I am aware, ceased to exist on 31 December 1943, at the time when the corporation was transformed into a private company. I was chairman of the Direktorium from 1 April 1943 until 31 December 1943 (?) [sic]. During all this time, and also after 31 December 1943 (?), I normally participated in all conferences of the Direktorium held in a restricted or wider circle. Of course there were cases in which I was absent for some reason or other. From the foregoing it follows that during the war I was well informed regarding the basic attitude of the Direktorium towards the question of labor procurement, with particular reference to other than German labor or compulsory labor, and therefore can make the following statement in respect thereof. The Krupp Direktorium only against its will, that is to say, only due to the pressure of circumstances to be described later, put up with the fact that other than German workers, and especially nonvoluntary workers, had to be employed. These circumstances consisted, on the one hand, in a certain moral pressure exerted by the authorities in regard to an intensified production program and to the employment of non-German workers, and, on the other hand, in the fact that the normally available manpower resources became more and more inadequate and finally gave out completely. This inward objection referred to by me was expressed in the Direktorium as far as I know, for the first time when the first Russian prisoners of war were consigned to us. This was toward the end of 1941. The prisoners of war came to us at that time after a very short stay in the prisoner of war base camp, and often in a completely emaciated condition, probably due to the after effects of severe battles and to the abnormal conditions prevailing in the fighting area from which they came. Naturally we could not obtain from them the work output of a normal German worker. At the same time, I have to add that later this situation was changed, as the Russian prisoners of war, after a prolonged stay at the prisoner of war base camp, came to us in a better physical condition. Even when Russian civilian workers were assigned to us for the first time, which may have been the case during 1942, the Direktorium put up with this fact unwillingly. Mr. Loeser submitted a statement to the Direktorium, which showed that the employment of such foreign workers, considering the relative work output and the relative cost of the employment of this type of labor, were of no financial advantage to the firm of Krupp as compared with the employment of German workers. But it is not correct that Mr. Loeser was the only one, or the chief one, to express the attitude men-

tioned by me above. This was the feeling and attitude of the entire Direktorium. I may mention at this juncture that, when the question of the projected erection of suitable barracks for foreign workers arose, Mr. Loeser repeatedly showed grave concern from the standpoint of his department, i.e., the financial standpoint. If I am being asked whether or not the member of the Direktorium, Mr. Erich Mueller, had a special positive influence on the employment of foreign workers, I cannot answer the question in the affirmative in this form. It is merely correct, that Mr. Erich Mueller was directly exposed to the pressure of the authorities in Berlin through his direct dealings with them following the forcing of the production program and consequently, the forced utilization of foreign manpower. Hence, it was he, who reported and passed on this pressure to the Direktorium. After a certain time at least it was clear to everyone that the Russian civilian workers were not voluntary workers in the true sense of the word and this circumstance caused the above-mentioned inherent dislike of the Direktorium to become more profound. The natural objection of the Direktorium to the employment of foreign especially involuntary workers described before found more pronounced expression when later, again under the pressure of external circumstances, manpower requirements had to be covered by the utilization of concentration camp inmates. I believe in 1944 an official announcement was made to the effect that other workers than prisoners of concentration camps will no longer be considered. Under this pressure the Direktorium therefore had to be satisfied to cover each and every urgent need of manpower in this manner. These are the great outlines of the policy followed by the Direktorium as regards the procurement of foreign or involuntary workers. As to the details of the methods used in drafting foreign especially involuntary labor, I will give a full account in the ensuing portion of this statement, as far as the circumstances are known to or remembered by me.

2. With particular reference to the "Berthawerk" in Markstaedt near Breslau, it is a fact that for the construction work preceding the opening of this plant, that was in about 1942, the labor of a great many prisoners of concentration camps was being utilized, which was known to me personally as well as to the Direktorium. But I must add that I do not know whether the utilization of concentration camp prisoners during the construction period of the "Berthawerk" was either caused or carried out by the Krupp firm or whether it occurred in the proper course of operations by the "Organization Todt" under Minister Speer which was entrusted with the execution of the construction work. I do not believe that in the beginning of operations the labor

of concentration camp internees was utilized at the Bertha Works. But it certainly was the case at a later stage in the operation of the Works, i.e., not later than in the first half of 1944. Whether or not it took place as early as in 1943 I do not know. The fact of the employment of prisoners of concentration camps and that the relative concentration branch camp, I believe named "Fuenfteichen," was in the immediate vicinity of the plant of the "Berthawerk" was known to me as well as to the Direktorium. The highest number of prisoners of concentration camps employed at any time by the "Berthawerk" is estimated to lie approximately between 1,000 and 10,000. I do not recall that the Direktorium took the initiative in any form regarding the utilization of concentration camp prisoners for the operation of the "Berthawerk" or knew of it before the accomplished fact. As to the argument that such an important measure could not have been taken without prior consideration on the part of the Krupp Direktorium, I declare that the Speer Ministry (Saur) appointed a so-called Commissioner to the Bertha Works in the person of Mr. Gildemeister, who on his own initiative took many decisive steps. At a time when the Bertha Works was in course of construction, Mr. Goerens, on behalf of the Direktorium in Essen, was competent as regards this matter. Mr. Loeser was entrusted with the financial side. I, myself, have been in Markstaedt four or five times. Once during the construction period I have seen the concentration camp prisoners used for that purpose, at work. At least once, during one of my other visits to Markstaedt, I have seen the concentration camp Fuenfteichen existing there at a distance.

3. With particular reference to the Krupp situation in Auschwitz I must truthfully declare, even after having been acquainted with the essential contents of the circular of "SS Sturmbannfuehrer Maurer" and more especially with his alleged reference to the "Auschwitz-Fertigungs-Werk-Krupp," that I do not know or knew at any time that the Krupp firm, whether under the name of "Fertigungs-Werk" or any other name, ever had another plant in Auschwitz, except the project for the relocation of a fuse workshop to be mentioned forthwith. Not only was it unknown to me, but I also think it impossible that such was the case. I have to maintain this statement, even after it was held up against me that the circular in question became effective 1 July 1944, at a time therefore, when the Krupp fuse project at Auschwitz already had no further object, and that the same circular in another part contains a reference to "Weichsel Metall Union, Auschwitz."

In reference to the project of the transfer of a fuse workshop to Auschwitz, I want to state the following:

In regard to the relevant negotiations between Krupp and the SS in Auschwitz, by way of Army Ordnance Office, Berlin, I was at that particular time only cursorily informed. The negotiations proper were conducted for Krupp, as far as I remember, by Messrs. Reiff and Weinhold. I cannot say with certainty, whether or not Mr. Karl Eberhardt played an essential part for the following reason. At a certain time, the date of which I can no longer remember, all matters pertaining to the transfer of plants were consolidated in the person of Mr. Karl Eberhardt. Since I no longer remember the date, I also do not know whether the negotiations in regard to the relocation of the fuse workshop to Auschwitz took place before or after. If it took place later, Mr. Karl Eberhardt must have played a leading part in them. If it took place before, he may possibly have participated in spite of this. I do not remember, if and to what extent other members of the Direktorium were informed about negotiations concerning Auschwitz. Undoubtedly Mr. Erich Mueller was interested in the technical aspect of the matter. But I do not think that he was informed about that part of the negotiations, which dealt with the specific form of labor procurement. Since at a time when the negotiations were still under way, it was mentioned that the fuse shop was to be constructed near the concentration camp of Auschwitz, the name of which I then heard for the first time, it was clear to me that the labor of the concentration camp prisoners at Auschwitz would be utilized for this project. I believe that this also must have been evident to the other gentlemen of the Direktorium. I remember that at that time I had a discussion with either Mr. Karl Eberhardt or Mr. Goerens in which we agreed to get out of this Auschwitz affair as soon as possible, with the stipulation that the continuation of fuse production by Krupp be not jeopardized thereby. I do not believe that actual operations in Auschwitz ever materialized. If it is held up against me that receipts are in existence, according to which the concentration camp Auschwitz debited Krupp with the employment of prisoners of the concentration camp Auschwitz I can only explain this fact by the assumption that, possibly, in the preliminary work of the Krupp firm at Auschwitz, prisoners of that concentration camp were employed.

4. Nothing is known to me of prisoners of concentration camps having worked in any of the following Krupp plants in Bremen: "Norddeutsche Huette A.G.," "Deschimag," "Weserflug G.m.b.H." If such was the case, then I have not learned about it. Especially in reference to the "Deschimag" and the "Weserflug G.m.b.H." dependent on the former, I would like to add that if concentration camp prisoners had worked there, it still would have to be con-

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firmed, whether or not this took place before or after both firms were taken over by the Krupp concern.

I seem to remember that concentration camp prisoners have worked in Wuestegiersdorf. As far as I remember, the question of the relocation to Wuestegiersdorf was discussed in the Direktorium. Whether or not, however, on this occasion the employment of concentration camp prisoners at this plant was discussed, I do not remember.

I do not remember the employment of concentration camp prisoners in a plant at Geisenheim. In regard to Maehrisch-Schoenberg, I only remember that the transfer, I believe, of the crankshaft manufacturing plant in Essen and Hamburg to Maehrisch-Schoenberg, was begun in 1944. Whether or not the plant in Maehrisch-Schoenberg was ever put into operation, I do not remember anymore. I also do not know anything of the Krupp plant in Maehrisch-Schoenberg employing concentration camp prisoners.

I also do not know anything about the employment of concentration camp prisoners in the Krupp coal mines in Essen or other mines in the Ruhr district, for instance in Bochum. I often visited such plants, but have never seen concentration camp prisoners at work. Hence, I regard it as highly improbable that the Krupp coal mines employed concentration camp prisoners.

5. In regard to the employment of concentration camp prisoners at plants in Essen itself, I only know one thing that in 1944 approximately 500 female concentration camp prisoners were assigned to us and that on account of it we were very disagreeably affected and made several attempts to get rid of them as soon as possible. I personally learned of the intended allocation of these female prisoners only shortly before their arrival, that is at a moment when their arrival could no longer be prevented.* Nothing is known to me of male prisoners having been requested at that time and of female prisoners having been assigned to us instead. In particular, I do not know anything about any possible negotiations in this matter by Mr. Lehmann, with whom I had almost no contact. I admit that presumably Mr. Ihn once told me that Mr. Lehmann was negotiating with a gentleman from Buchenwald. The gist of this conference, however, has not become known to me. I do not know anything about it and would even like to exclude that any, other than the above-mentioned female concentration camp prisoners, were ever used in Essen. In this connection I would like to add, on one occasion when I was present when visitors inspected the armor construction work-

* Further evidence concerning the employment of female concentration camp inmates is reproduced below in section VIII F.

shop III (Werk Panzerbau III), I saw there workers in a partitioned-off area and under guard, who, as I was told at the time, were convicts [penitentiary prisoners].

I have given the foregoing points 1–5 at my interrogation by Dr. Maximilian Koessler, Attorney (Trial Team III) this 21st day of June 1947 at Nuernberg.

Nuernberg, 26 June 1947

[Signed] KRUPP VON BOHLEN UND HALBACH*

6. I do not remember, if prisoners of war were employed in Markstaedt, which indeed was an armament plant. It is true that so-called Italian military internees (Badoglio-Italians) have worked in Markstaedt, but they probably were regarded as a special category of workers and not as prisoners of war by virtue of a respective official order, as far as I remember. It is known to me, that these so-called Badoglio-Italians did not come to Germany voluntarily. I do not remember the number of Italians used in Markstaedt and I also do not know whether or not they were specifically listed in the periodic reports of the Bertha Works to the Krupp Direktorium. The number of prisoners of the concentration camps used must have certainly been specifically accounted for in those periodical reports. These periodical reports were addressed to me personally I presume though that they came to the knowledge of all the other members of the Direktorium also by way of circulation.

It is known to me that a large number of Czech civilian workers were to be used in Markstaedt. Whether or not this plan was carried out, is unknown to me. I likewise seem to remember that a number of so-called eastern workers were employed in Markstaedt. They were chiefly those Ukrainians who after the German withdrawal from the Ukraine voluntarily joined our employees and workers employed there and sometimes took along their families. Whether, later or earlier, eastern workers other than the above-mentioned group were employed in Markstaedt as well, I do not remember. I do not recall at what time and in which concrete form the establishment of the Fuenfteichen concentration camp took shape. I also know nothing concerning if and at what time the approximate 1,000 Jews employed by the Speer construction management were turned into concentration camp prisoners and by reason thereof were transferred to the Fuenfteichen camp.

At about the time when Mr. Gildemeister was appointed administrator in Markstaedt, Mr. Reiff was appointed special

* The affidavit continues after this signature of the defendant Alfried Krupp. The defendant signed points 1 through 5 on 26 June 1947, and after further interrogations signed points 6 through 14 on 28 June 1947. Thereafter, on 3 July 1947, the formal jurat was executed.

deputy, so to speak, of the Krupp firm in Markstaedt by Mr. Saur or with the latter's consent (?) [sic]. Mr. Houdremont has been in Markstaedt more than once and must have been aware of the employment of concentration camp prisoners there. Whether Mr. Loeser had any knowledge of the employment of concentration camp prisoners in the Markstaedt plant, I do not know, but he must with certainty have known that during the building stage of Markstaedt the Jews repeatedly mentioned were employed. Certainly Janssen and Ihn, at least at a later date must have learned of the employment of concentration camp prisoners in Markstaedt.

7. In reference to the question whether all foreign workers of the Krupp firm belonging to the group of the so-called western workers, were voluntary workers, I want to give the following particulars. It is known to me that at a certain time, which I do not recall anymore, an official order was proclaimed according to which the work contracts of the western workers could be extended also against their will. The details of this measure are unknown to me. I take it for granted however, that it has been applied in some form on the Krupp firm and that therefore at least those western workers, who were affected by this compulsory prolongation of their work contract no longer were voluntary workers during the period of the prolonged contract. Moreover, I would also like to state that at that time I was informed that at least a considerable number of western workers, employed in Germany, were not voluntary workers, in view of the manner in which they were made to comply with the work contract. It is known to me that particularly certain Dutch workers were forced to work under contract. I have learned of this on the following occasion. One day, a distant relative of mine visited me in Essen, whose name was Voss van Steenwyk, and who at that time was employed in Essen not by Krupp but by some other firm. He told me that by reason of a decree proclaimed in Holland certain lower age groups were forced to work for labor service in Germany.

Whether such involuntary workers, bearing in mind the implementation of their service contract, were used by the Krupp firm or in any of the plants of the Krupp concern, I do not know, but assume it. The home of the family of my distant relative is, as far as I know, in Noordwyk (north of The Hague).

8. As to the question whether the name of Langenbielau is known to me as the location of one of the plants of the Krupp firm, I observe that as far as I am aware, Langenbielau and Wuestegiersdorf are localities within close range of each other and that in this region a group of relocated plants existed. I

do not remember any details. Neither do I know, whether concentration camp prisoners were employed in one of these plants.

9. The question whether the Krupp firm in Berndorf (Austria) employed compulsory workers, in particular concentration camp prisoners, cannot be answered by me with yes or no from my knowledge or memory. The gentlemen who must be competent to give information about this matter were the managers of that plant Dr. Baur and Golueke. I do not know where these gentlemen are at present. I assume that Mr. Janssen and Mr. Ihn are informed regarding this question. I may add in this respect that such questions arising in the independent plants, to which Berndorf belonged, were independently settled and not by Essen.

10. As to the question whether it was known to me that the coal mines of the Krupp firm employed compulsory workers, particularly concentration camp prisoners, I must repeat that I do not know anything about the employment of concentration camp prisoners in these mines. On the other hand I know that the Krupp coal mines employed about 50 percent foreign workers and that about four-fifths of these foreign workers were made up of eastern workers. Dr. Friedrich Benthaus of Essen should be in a position to give more detailed information.

11. I only know of one single case of ill-treatment, or attempted ill-treatment, of a foreign worker, an eastern worker to be exact, that came to my personal knowledge or was discussed in the Direktorium in my presence. This happened at the beginning of the period in which eastern workers were assigned to us for the first time. At that time a report of such an incident was made to the Direktorium and the Direktorium resolved to publish general instructions, which characterized the iniquity of such conduct towards foreign workers and warned against a repetition of such incidents. Whether this general decree was issued in the form of a circular letter to all the plants or in another but official form, I do not remember. It is highly probable that the whole affair occurred at a time when Loeser still belonged to the Direktorium. If I am told that numerous cases of ill-treatment of foreign workers of all kinds occurred in the Krupp plants, I can only reply that it has not become known to me and that I possibly have not been informed of such cases by the subordinate gentlemen. I placed full confidence in all my colleagues that they, by their own initiative, would strive to eradicate any possible intolerable conditions of this kind.

12. The facts that complaints were frequently made on account of insufficient food for the foreign workers, and that they were also discussed among the competent gentlemen of the Direktorium are well-remembered by me. I regard it as highly probable that

at least a part of these complaints was ventilated at a time when Loeser still belonged to the Direktorium. Relevant reports were handed in to the Direktorium in particular by Mr. Ihn and Dr. Wiede. The cause of the conditions described had mainly a two-fold origin—on the one hand it was attributable to the official regulations, which determined the rations in detail, and on the other, it was attributable to technical difficulties in the procurement of food, the preparation and the transport of the prepared meals. The Direktorium in such cases has always taken or caused to have taken measures, to abolish these bad conditions as quickly and thoroughly as possible. We moreover succeeded in most of the cases, indeed not always for long, so that complaints of that kind were repeatedly lodged with the Direktorium, thereby causing action to be taken repeatedly in the same manner. Upon presentation of the contents of a letter, addressed to me personally and signed by 18 Dutch Krupp workers, employed at Essen-Bergeborbeck and dated 16 December 1942 (according to statement of the interrogator identical with Document D–276), I would say that I remember having received such a letter and that I at that time immediately passed it on to Mr. Ihn with the request to make a report to me about the case and to provide relief.

13. In reference to the question of housing the foreign workers in Essen, difficulties existed prior to beginning of the heavy air raids on Essen as well as after; these difficulties were repeatedly discussed by the Direktorium and were known to me personally.* As far as the time after the heavy air raids is concerned, the cause of this difficulty must be attributed to the fact that the erection and construction of the camps was not immediately possible, thereby making demands on an intensified scale on camps and other suitable accommodation, not damaged by bombs. I remember a particularly acute case (about spring 1944) in which the Krupp firm endeavored to remedy this condition by demanding from the authorities the moving of a considerable number of foreign workers. This attempt, however, was unsuccessful because, as I learned at the time, transport through the neighboring "Gau Westfalen-Sued" could not be carried out. The acting Gauletier of Essen, Schlessmann by name, should be in a position to corroborate my statements. In reference to the period before the heavy air raids on Essen, the inadequate housing of the foreign workers (crowding of the camps) partly existing already at that time, could be traced to the fact that the barracks or other camps were not finished at the time they should have been completed as

* Further evidence concerning air raid precaution measures is reproduced below in section VIII G.

per contract. Indeed it is true that the assignment of foreign workers was made subject to the general condition that the plants declared themselves to be in a position to accommodate them properly.

14. In reference to a special interrogation I would add, I do not remember anything as regards whether Mr. Loeser, at any time, raised objections to the allegedly intended employment of an alleged number of foreign workers not in accord with existing housing facilities and it is incorrect that this was one of the reasons for his resignation. I have made the foregoing points 6–14 at my interrogation by Mr. Maximilian Koessler, Attorney (Trial Team III), on 26 June 1947, at Nuernberg.

[Signed] KRUPP VON BOHLEN UND HALBACH

Nuernberg, 28 June 1947

I have carefully read each of the 14 pages of this affidavit, have made the necessary corrections in my own handwriting and initialed them, and hereby declare under oath that I have told the whole truth in this affidavit to the best of my knowledge and belief.

[Signed] KRUPP VON BOHLEN UND HALBACH

[3 July 1947]

PARTIAL TRANSLATION OF DOCUMENT NIK–11803 PROSECUTION EXHIBIT 1372

EXTRACTS FROM AN AFFIDAVIT OF DEFENDANT MUELLER, JUNE–JULY 1947, BASED ON SEVERAL INTERROGATIONS, CONCERNING VARIOUS ASPECTS OF THE EMPLOYMENT OF FOREIGN LABOR

I, Erich Mueller, after having been warned that I will be liable to punishment for making a false statement, state herewith under oath, of my free will and without coercion, the following:

1. In spring 1943 (beginning of April or end of March) I became a member, that is a regular member, of the Krupp Direktorium and remained such from then until May 1945. In my above-mentioned capacity, I had to be invited to, and attended all the meetings of the Direktorium whether small or large whenever I was in Essen. However, I wish to mention that my position as responsible construction expert for the development of weapons at Krupp necessitated frequent duty trips especially to the appropriate offices in Berlin which kept me away from Essen for considerable periods, so that although I was a member of the Direktorium my attendance at meetings of the Direktorium was not regular. In conferences of the Direktorium in which the basic

questions for the employment of foreign workers especially of forced labor were discussed, I was not present because these took place before I became a member of the Direktorium. All these questions had already previously become acute. This especially applies to the questions of employing concentration camp inmates, which type of labor had already been employed in the Bertha Works before I became a member of the Direktorium.

2. Until the time mentioned above when I became a member of the Direktorium in my sphere of activity as chief of the artillery development department of Krupp, I did not have anything to do with the management or the supervision of the production of army ordnance nor with the acceptance of delivery orders for the same. The latter was the province of the Messrs. Pfirsch and Eberhardt, who collaborated in this respect even before Eberhardt took over this function at about the time of my appointment to the Direktorium. In the summer of 1940 I was given the post of honorary chairman of the committee for weapons, by the then Todt Ministry, which later became the Speer Ministry, who in agreement with the Ordnance Office had to determine how the orders from the army for weapon production were to be distributed to the individual factories, and who had also to request the further development of the weapons. Due to personal differences with Dr. Todt, and especially with his deputy Mr. Saur, which began at the end of 1941, I resigned from my above-mentioned honorary post in the spring of 1942. The above-mentioned differences of opinion had nothing to do with the question of recruitment of labor, but with the question of production possibilities. I did not think that a production capacity as envisaged by Saur was attainable.

In the summer of 1942 the then Speer Ministry appointed me to a new honorary post, this time as chairman of the weapons development committee. In this case, too, I had similar differences with Saur, which prompted me to express the wish to be relieved of this office. This time my wish was not granted, and I only succeeded in practically withdrawing by establishing 5 subcommissions, which were actually active, while I kept my post as chairman nominally. A gentleman from Krupp, a Mr. Egen, belonged to one of these subcommissions. The second differences of opinion mentioned also had nothing to do with the question of recruitment of labor, but concerned differences of opinion concerning the possibility of carrying into effect weapon development as requested by Saur. While I was chairman of the armament committee, there were occasions when the department of Mr. Karl Eberhardt, to which also Mr. Reiff and Mr. Koettgen belonged, had dealings with the ordnance offices, in the course of which the

firm of Krupp explained the backlog of production, in comparison with the requested program, as being due to the insufficient allocation of machinery and workers. In this connection, and for the purpose of supporting the point of view of the firm of Krupp mentioned above, I brought this question up for discussion on the occasion of my other meetings with Mr. Saur.

* * * * * * *

I was never personally aware of the fact that some civilian workers especially the so-called eastern workers, with the exception of concentration camp inmates, were forced labor. I knew of the employment of concentration camp inmates already before I became a member of the Direktorium, and I assume that all the other directors in Essen knew about it too. At that time I only knew of this in respect to the Bertha Works in Markstaedt. I do not remember if I knew about the intended use of concentration camp inmates in the transferred fuse plant in Auschwitz already before my entry into the Direktorium, or only later on. I would like to remark that negotiations for the Auschwitz project were managed by Mr. Karl Eberhardt, and were conducted chiefly by his subordinates, Messrs. Reiff, Koettgen, and Weinhold. Therefore, I assume that Mr. Karl Eberhardt was already then the one to whose duties plant transfers belonged.

* * * * * * *

I have made the above statements 1 and 2 in the course of my interrogation by Mr. Maximilian Koessler, Attorney (Trial Team III) on 23 June 1947 in Nuernberg.

Nuernberg, 24 June 1947

[Signed] ERICH MUELLER*

Continuation of interrogation—24 June 1947.

* * * * * * *

4. When I mentioned before that I only came into contact with labor questions in the spring of 1943, when I took over the "machine shops" department, I thereby meant to say the following: My duties just mentioned included the supervision of production in the machine shops in every respect, that is, also the procurement of sufficient labor to fulfil the production program. At that time a large number of foreign workers, including eastern workers, were already employed in the machine shops under my supervision. At the same time (when I took over the "machine shops" department) there were already a large number of prisoners of war employed in various Krupp machine shops, to my

* The affidavit continues after this signature of the defendant Erich Mueller. The defendant signed points 1 and 2 on 24 June 1947 and, after further interrogation signed points 3 through 7 on 27 June 1947 and points 8 and 9 on 1 July 1947. Thereafter on 1 July 1947 the formal jurat was executed.

knowledge. The Bertha Works produced weapons only; it was a factory specializing in the production of the so-called L.F.H. (light field howitzer). The production of most of the other machine shops was mixed (armament production as well as peacetime products). When I found these conditions in existence I did not give the matter further thought, but merely assumed that they were all in accordance with official directives and that they had been examined by the heads of the department for labor questions, Mr. Loeser, and then Mr. Janssen, and that they had been found in order. This all the more, since I knew at that time that similar types of workers were used by all other German armament industries.

It was also known to me, and influenced my attitude in this respect, that agreements existed between the German and several foreign governments on the subject of the employment of foreign workers in Germany. I saw no cause to discuss the mentioned questions with Mr. Loeser, Mr. Janssen, or Mr. Alfried von Bohlen, or any other member of the Direktorium, as I did not know of any unlawful acts. This with the following qualification: In the course of conferences between me and Mr. Janssen, or Mr. Eberhardt, as well as in general conferences in which one or several of the following gentlemen took part; Alfried von Bohlen, Houdremont, Fritz Mueller, Korschan, and other plant leaders, the employment of foreign labor including eastern workers was mentioned. However, at that time the question as to whether or not such employment was justifiable was not discussed, but the whole matter was treated as a *fait accompli.*

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(Continued on 25 June 1947, based on the interrogation of 24 June 1947)

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6. The question as to whether Mr. Alfried von Bohlen personally ever saw concentration camp inmates being employed at the Bertha Works, I answer in the affirmative. This happened on the occasion of a visit to Markstaedt to attend a meeting there, when he was accompanied by me, Mr. Houdremont, Mr. Janssen, and a few other men, among whom was also Mr. Ihn, I believe. The employment of concentration camp inmates was at that time already a definite fact. The visit to the Bertha Works mentioned by me took place about November 1943, at any rate during the winter of 1943.

* * * * * * *

As production at Markstaedt increased continuously, the procurement of labor became increasingly difficult; all the more as the repeated requests addressed to the Armament Ministry did

not have the necessary results, so that the required production program could not be completely carried out. In this connection differences of opinion arose with Mr. Saur of the Armament Ministry, who insisted on the program of production being carried out under all circumstances. As a last resort for labor procurement Mr. Reiff considered the employment of concentration camp inmates. He discussed the matter with Mr. Korschan who promised to pass it on to me. Korschan then submitted Reiff's proposition to me, probably during one of my visits to Markstaedt, maybe at the beginning of September 1943. I promised Korschan that I would give him my decision after having been in touch with the Direktorium.

* * * * * * *

The Armament Ministry and the Army Ordnance Office were planning the establishment of a new manufacturing plant for heavy infantry guns and for a new development of the 3.7 cm. automatic antiaircraft gun. Several firms, among them Krupp's received the commission to work out a project for such a plant. After repeated negotiations the project originally submitted by Krupp for a new factory which to my knowledge was to have been erected in the district of Bielefeld where the population was used to doing delicate mechanical work was rejected because of the high costs.

On the other hand two new projects by the firm were submitted for consideration; one for Upper Silesia, to be established in a place called Laband, the other project to be in connection with a concentration camp in Sudetengau, the name of which I cannot remember. After careful examination, the project "Laband" was not recommended by us, as, in view of the heavy manual labor in the mines, the workers there were not suitable for carrying out with the necessary precision the delicate mechanical work on small automatic guns. On the other hand it could be assumed that there would be a number of locksmiths in the concentration camps, as well as other mechanically trained persons, who would be suitable for such work. Therefore, in view of these considerations we advised the Army Ordnance Office that when discussing the matter further they should give preference to the second of the projects. This was the meaning of my remark in the final paragraph of NIK–8485 [Pros. Ex. 1219].* Objections in principle against the employment of concentration camp inmates did not exist in view of the reasons explained in point 7 of my statement in connection with the Bertha Works.

However, the project was not carried out by the firm of Krupp in any way whatsoever.

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* Teletype message from defendant Mueller to Reiff on 25 April 1942, reproduced above in section VIII B 1.

I have made these points 8 and 9 during my interrogation at Nuernberg by Mr. Maximilian Koessler, Attorney (Trial Team III) on 30 June 1947.

Nuernberg, 1 July 1947

[Signed] ERICH MUELLER

* * * * * * *

11. I further insist that to this my foregoing affidavit, the following addition dictated herewith by myself be made:

I did not have any particular misgivings about the employment of concentration camp inmates in the plants, because in my opinion it was immaterial whether they worked in the camp or in the plant. They were being employed in the entire armament industry; the refusal to employ them could have been considered as sabotage of the armament drive or as jeopardizing the war effort. There was no reason to commit such an act of sabotage. Moreover, I never heard of atrocities or maltreatment in the concentration camps.

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[1 July 1947]

[Signed] ERICH MUELLER

TRANSLATION OF DOCUMENT D–274
PROSECUTION EXHIBIT 1268

AFFIDAVIT OF DEFENDANT IHN, 1 OCTOBER 1945, CONCERNING HIS RESPONSIBILITIES IN KRUPP'S PERSONNEL ADMINISTRATION AND THE EMPLOYMENT OF FOREIGN WORKERS, PRISONERS OF WAR, AND CONCENTRATION CAMP INMATES

I, Max Ihn, born 25 January 1890, make the following declaration voluntarily today 1 October 1945.

Previously I was a regular officer; I retired; and on 15 September 1919 I went to Duesseldorf to the Employers' Association. In 1921 I transferred to Hamm. On 1 June 1933 I began my activities with the firm of Krupp in Essen.

There, at first, I dealt chiefly with matters concerning employees. In October 1935, I became counterintelligence agent of the War Ministry and was directly under that department. From 1935 I was responsible for dealing with incoming letters containing secret instructions and handling and dealing with war materials or correspondence and such like matters and finally with counterespionage. When I first joined the firm in 1933, I was responsible to Mr. Buschfeld who was my superior. He was a member of the Directorate. After his death, Dr. Loeser became

his successor. My last superior was Director Janssen to whose department I belonged, and to whom I sent my reports. I made most of these reports verbally. Until 1943 the remedying of tariff difficulties and single questions (complaints which came from the employees) belonged to my sphere of work. Further, I had to look after all workers (including eastern and foreign workers) [and] the transmission of regulations regarding pay and catering.

I was engaged with employee problems since 1939. Among these were personnel administration, wage office, welfare, advertising, and press under Mr. von Buelow, labor allocation.

[Handwritten] and workers' protection [Arbeitsschutz]

I was in contact with him and often received direct orders from him.

[Handwritten correction, "him" being replaced by "Mr. Gustav Krupp von Bohlen."]

From 1943 on, the [workers'] camp administration, cooperative stores, hospitals, and the administration of houses came under my control, further, also matters of administration which were the responsibility of a specialist. The guarding and feeding of foreigners was also under me. Prisoners of war were not under me but were under the jurisdiction of the military authorities.

On 31 March 1943 I became a deputy member of the Directorate.

[The original shows "director" which is changed to "deputy member of the Directorate" written by hand.]

I now came into contact with Mr. Alfried Krupp.

About 1,000 employees came under my direct care. In 1943 there were about 15,000 employees in the whole of the Cast Steel Works, about 55,000 workers (including foreign workers) so that about 70,000 people were employed in all. The highest number of foreign workers employed was about 20,000. I have named this figure from my own knowledge and not from the letter from Mr. Kupke in which he told me he had said during the interrogation by the FSS [Field Security Service—British Counter Intelligence Service] that 20,000 foreign workers were employed. The working hours for these foreigners were laid down by the works, in other words, I was responsible for it. Youths were employed among them from 14 years on.

Foreign workers arrived for the first time in 1941–42.

The first concentration camp prisoners arrived in the summer or autumn of 1944 although the firm of Krupp had already asked for a number of them between 1,100 and 1,500 on 22 September 1942. I was responsible for the employment of these people as well as for correspondence in regards to the procurement of these

concentration camp inmates. Since I cannot remember from whom I received the order to carry on the correspondence about concentration camp prisoners, I must take the responsibility for it.* The food supply of all camps, including special and concentration camps was also under me. I admit that, at first, there were many complaints from the foreign workers about the bad feeding while later on complaints were received about the food from time to time.

I knew that steel birches had been distributed in the works (but not in the camps). I was informed that workers were beaten up in the works and camps. I informed the Directorate about these cases, and I spoke especially to Mr. Janssen about these occurrences and gave orders that beatings were not allowed. [Handwritten, "and I spoke especially"] I admit that mishandlings had taken place in Mr. Loeser's time.

The 520 concentration camp prisoners who were employed by Krupp were ordered by me on instructions from the Directorate. The request about these prisoners was talked over by the Directorate in my presence and it is quite possible that Mr. Alfried Krupp von Bohlen was present. As far as I know, these prisoners came from Buchenwald. I talked to the Buchenwald camp commander personally here at Krupp's once, and he informed me of the conditions under which we could employ concentration camp prisoners. Dr. Lehmann traveled to Buchenwald on my orders in order to settle the conditions under which we could employ the prisoners. I did not know that Krupp had employed 22 concentration camp prisoners from Auschwitz.

The concentration camp prisoners were housed by Krupp in wooden barracks in the Humboldtstrasse. I was informed about what happened in this camp.

I repeat that in 1942 I was responsible for matters concerning workers (German and foreign). Even then the conditions in the camps were such that Gauleiter Schlessman wrote saying that if conditions were not improved he would take action himself. Surely Dr. Loeser talked over the conditions at that time with Mr. Gustav Krupp von Bohlen.

The workers who were incapable of work were transferred. Dr. Janssen suggested that the 520 Jewesses who were employed at Krupp's should be taken away before the occupation took place, namely back to Buchenwald. I assume that Mr. Alfried Krupp von Bohlen must have known about it. When I was taken ill on 22 February 1945, I gave Mr. Lehmann the order to send these people back to Buchenwald. I did know that there were confiden-

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* Another affidavit by defendant Ihn (NIK–10758, Pros. Ex. 1241), concerning the employment of female concentration camp inmates, is reproduced below in section VIII F 3.

tial agents [Vertrauensmaenner] of the firm in the factory and camps who made reports on occurrences in the camp.

Only people in the camps who had appeared at work received food.

I know from a report by Mr. Kupke in which he drew my attention to the fact that, during his interrogation by the FSS, he gave the number of foreign workers as 20,000. I did not take the figure which I gave from Kupke's letter.

The handling of the special camps was under Mr. von Buelow's control.

The assertion by Kupke and Lehmann that I was frequently in the camps and that I was fully informed of the occurrences in the camps (also about the maltreatment and bad feeding) is true.

[Signed] IHN

TRANSLATION OF DOCUMENT NIK–9220
PROSECUTION EXHIBIT 20

AFFIDAVIT OF DEFENDANT LEHMANN, 9 JULY 1947, CONCERNING HIS POSITION AT KRUPP*

I, Heinrich Lehmann, Nuernberg, having been warned that I am liable to punishment if I make a false statement, hereby make the following affidavit voluntarily and without coercion:

My full name is Werner Wilhelm Heinrich Lehmann. I was born on 12 August 1904 in Magdeburg, Germany.

I was a member of the following political organizations:

NSDAP, 1941. Party No. 8303913
National-Socialist Flying Corps, 1935
[Handwritten]
National-Socialist League for Public Welfare } I believe
German Labor Front } from 1934 on

The only decoration which I received in the Third Reich was the following: War Service Cross 2d Class.

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* In connection with defense objections to the admission of affidavits signed by the defendants before the indictment was issued, Dr. Wolf, counsel for the defendant Lehmann, made the following statement to the Tribunal on 29 May 1948 (Tr. p. 10347): "Last night I read through Dr. Lehmann's examination records which have been made available to me voluntarily by the prosecution. In the interest of justice and fairness, I should like to state that in none of these records have I found any hints that the gentlemen of the prosecution who were interrogating the witness Dr. Lehmann ever used physical coercion against him. These transcripts, however, confirm the fact that Dr. Lehmann, from the very beginning, was left quite in the dark as to whether he was being interrogated as a defendant, as a potential defendant, or as a witness. He was told repeatedly, on later occasions, that there was no indictment raised against him."

History of employment with Krupp

I entered the service of the Cast Steel Works, Fried. Krupp A.G., on 1 March 1940 as assistant to Ihn, to handle problems of personnel and administration. I was also responsible for labor allocation outside the plants, i.e., negotiating with the competent authorities for the assignment of labor. In June 1940 I received limited power of attorney. I became Prokurist on 1 January 1944.

The only industrial and economic organizations in the Third Reich in which I held office or membership were: None.

The only political and official positions which I held in the Third Reich were: None.

I was not a military economy leader.

I have carefully read each of the two pages of this affidavit. I have made the necessary corrections, countersigning them with my initials, and I hereby declare on oath that I have stated the absolute truth in this affidavit to the best of my knowledge and belief.

[Signed] H. LEHMANN

TRANSLATION OF DOCUMENT NIK-10764
PROSECUTION EXHIBIT 893

AFFIDAVIT OF DEFENDANT KUPKE, 11 JULY 1947, DECLARING THAT EASTERN WORKERS ASSIGNED TO KRUPP HAD BEEN FORCIBLY BROUGHT TO ESSEN BY REICH ORGANIZATIONS

I, Hans Kupke, at present in Nuernberg, having been cautioned that I will render myself liable to punishment for any false statement, do hereby state under oath of my own free will and without coercion, as follows:

With regard to the eastern laborers (Russians and Ukrainians) assigned to us for work it was completely obvious to me that these workers did not come voluntarily, but that they had been forcibly brought to Essen by Reich organizations.

I have read this one page of this affidavit through carefully and have made the necessary corrections in my own handwriting, and countersigned them with my initials, and declare herewith under oath that to the best of my knowledge and belief I have spoken the pure truth in this declaration.

[Signed] HANS KUPKE

PARTIAL TRANSLATION OF DOCUMENT NIK–8283
PROSECUTION EXHIBIT 1248

EXTRACTS FROM THE AFFIDAVIT OF DEFENDANT LOESER, 28 APRIL 1947, CONCERNING EMPLOYMENT OF FOREIGN WORKERS AND PRISONERS OF WAR

I, Ewald Loeser, residing at Frankenstr. 379, Essen-Bredeney, honorary town councilor of Essen, at present temporarily in Nuernberg, after having been told that I am liable to be punished for giving false testimony, and that false testimony consists not only in incorrect statements but also in statements left intentionally incomplete, hereby reply to questions put to me by Mr. Maximilian Koessler, Attorney, Trial Team III, and declare under oath, voluntarily and without duress the following:

* * * * * * *

At that time [April 1942–April 1943] there was a plan to use a large number of foreign workers of all sorts, including prisoners of war, at Krupp's in Essen. A number of about 50,000 to 80,000 was intended. Whereas this idea was considered feasible by the gentlemen with whom I disagreed, as mentioned above, I was decidedly opposed to this plan, pointing out that the practical difficulties of accommodation (building of suitable barracks) and feeding could not be overcome.

Gustav Krupp and the other gentlemen, with whose opinions I differed, took the stand that Berlin had ordered an armament production which necessitated the employment of such numbers of workers.

This clash of opinion was one of the main reasons for my leaving the Krupp firm.

* * * * * * *

Concerning the region of Essen I have this to add—

The NSDAP in Essen took the stand that the foreign workers, especially the Russians, were to receive less to eat. The industrial enterprises, however, and especially Krupp, were opposed to this, and of their own accord they voluntarily supplemented the abovementioned official food rations. Besides, as far as I remember, the official food rations for the Russians were, at a certain date, raised, most probably upon the instigation of *Sauckel.* But I don't remember how much the rations were raised, and whether they were then the same as those of other workers.

Even though I had officially nothing more to do with these questions, I personally saw Sauckel two times, in Berlin in autumn 1942, and winter 1942–1943, about raising the food rations for the Russian workers, and at the same time I made representa-

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tions regarding other difficulties in connection with foreign workers.

During the first one of these two meetings I made a serious statement, with about the following wording:

"You must be careful that history some day does not consider you a slave dealer."

Whereupon Sauckel replied—

"That is not my intention, but I must procure the workers; that is my task."

During the second conference, which took place several weeks before the official recognition of my retirement from Krupp, I told Sauckel that I still had the same misgivings as before, and I handed him an invitation to visit Krupp's.

Sauckel then came, I believe it was in March 1943, to Essen.

At the close of his short visit to Essen at that time, a conference took place between him and a number of people at Krupp's who held authority in questions concerning workers.

I presume that at least the following persons took part in this conversation: Goerens, Alfried Krupp, I (Loeser), Erich Mueller, Houdremont, Ihn, Dr. Beusch, von Buelow, and also the head of the technical construction department whose name I have forgotten. I don't believe that Lehmann was present. Possibly Janssen participated too.

At this meeting the different officials tried to show that the Krupp firm had done everything possible to make its requests for workers in good time and to provide board and lodging for them. The difficulties caused by the air raids were also stressed in this meeting.

After hearing these reports Sauckel had to admit that Krupp could not be blamed for anything.

I should like to add to what I said before about Russian prisoners of war and civilian workers, that the prisoners of war were, as far as board and lodging were concerned, under the Stalag [prisoner of war camp] and that the Krupp firm only had something to do with them [concerning food and quarters] if it received a special directive from the Stalag.

* * * * * * *

4. *Question*—Regarding the question as to whether the foreign workers employed with the Krupp firm were voluntary or involuntary workers, and what was known to me concerning this matter, officially or unofficially, through my own observation or from hearsay, I can say this—

4. *Reply*—As regards the western workers, especially the French, I always thought they were voluntary workers. I still think that my opinion at that time was correct. As for the Soviet

workers (Russian civilian workers), it was my opinion from the outset that at least a large part of them were not voluntary personnel. I came to this conclusion particularly from the manner in which these people arrived (under guard) and from the fact that they constantly remained under guard.

I commented on this situation in both my above-mentioned conversations with Sauckel, who stated in reply that officially he had to assume the view that voluntary personnel were concerned.

As I see it, other authoritative persons from Krupp must also have seen clearly that at least a large part of these Russian civilian workers were involuntary personnel. By these other authoritative persons I mean those whose main work was concerned with labor allocation.

Moreover, I had arguments about these questions with Gustav Krupp, Alfried Krupp, and Goerens.

My view was that the use of such involuntary personnel was incompatible with the reputation of the Krupp firm. The other gentlemen mentioned took the contrary view, that during the war Krupp must conform to the regulations then in force.

This point was also brought up in the first of those discussions between Gustav Krupp and myself, which discussions finally led to my leaving the firm. Gustav Krupp said to me among other things "If you do not want to conform to this situation, then we must part."

* * * * * * *

[Signed] E. LOESER

4. DEFENSE TESTIMONY AND AFFIDAVITS

EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS MAX HENNIG BEFORE COMMISSION I[1]

DIRECT EXAMINATION

DR. WOLF (counsel for the defendant Lehmann): Mr. Hennig, what was your task?[2]

WITNESS HENNIG: My task?

Q. When, in October 1942, the firm of Krupp sent you to Paris?

A. My assignment was to take up contact with the labor allo-

[1] Complete testimony is recorded in the mimeographed transcript 5 June 1948, pp. 11445–11458.

[2] Hennig, according to a memorandum of the defendant Lehmann, was "in charge of labor recruiting for the whole of France for the Cast Steel Works." See Document D–196, Prosecution Exhibit 888, reproduced in part in section VIII B 1, above.

cation agencies in France and to represent the interests of the firm for a proper allocation of manpower.

Q. Did you have any influence on the recruitment or in the assignment of these laborers to Germany?

A. No, I didn't.

Q. Then you merely had to see to it that these people were allocated according to their professions?

A. Yes, that was my task.

Q. Was there ever in existence a recruitment agency for Krupp in France for foreign workers?

A. No, not during the time when I was there. I don't know that it was in existence before my time or after my time, or that there was ever an office of that nature.

Q. Was the French firm, in particular Bergerat et Monnoyiur et Cie a Krupp recruitment agency?

A. No. This firm had taken over the representation of the firm of Krupp for various industrial production equipment, and in our capacity as Krupp employees we went there to use their typewriters and to establish telephone connection with Essen in order to make our reports, or any other messages that we had to submit. The firm of Bergerat was not included in this affair at all.

Q. Was there ever a recruitment agency in the Krupp office, Boulevard Haussmann 141?

A. No, as far as I know, that office was established only during the last weeks of my stay in Paris. It was only to be sort of a branch office for those people who came to Paris on behalf of the firm.

Q. Mr. Hennig, you will have to speak a little more slowly. If you speak too quickly, you will be warned by the yellow light. Then your activity was only of an informative nature?

A. Yes.

Q. As far as you could see, when French civilian workers were recruited by the official labor allocation agencies there, was the principle of voluntariness violated?

A. We must distinguish between two periods of time. In the first period, the recruitment was done on a purely voluntary basis. Later, an agreement was reached with the French Government—I believe with Laval—according to which French workers could be drafted for work in Germany.

Q. You said that Dr. Lehmann visited you in Paris?

A. Yes. I was working for him in Paris, or I had gone there upon his instigation; naturally, when he came to Paris, I reported to him.

Q. Did Dr. Lehmann know that you did not have to carry out recruitment activities?

A. Yes.

Q. That your activity was of an informative nature?

A. Yes. The recruitment activity could only be carried out by the German recruitment agencies, and I was not subordinate to such a recruitment office.

Q. Do you know for what other purposes Dr. Lehmann used his stay in Paris?

A. Yes. Apart from the direct labor allocation questions, he also had to deal with the procurement of various articles necessary for the French workers, who were working for us in our plants. Mainly these things were canteen goods, smaller necessary articles, musical instruments, games, and books.

Q. Canteen articles, too?

A. Yes. He tried to get additional food stuffs. For instance, wine and such like.

Q. Do you know anything else about the manner in which Dr. Lehmann safeguarded the interests of French civilian workers there?

A. Yes. He established contact with those people who had been delegated by the firm and who were working in the various recruitment agencies, and occasionally he was given letters and sometimes even packages from the next of kin with the request to deliver them to workers in Germany.

Q. Was that permitted as such?

A. No, of course that was forbidden.

Q. Was that risky for Dr. Lehmann?

A. Yes, of course; it was a favor he was doing for these people. It was very risky because it was a violation of the censorship regulations.

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CROSS-EXAMINATION

MISS GOETZ: Mr. Witness, I am not altogether clear what you did in France. You were there purely in an informative capacity. To whom did you give information?

WITNESS HENNIG: I gave it to the competent agency in Essen.

Q. You mean the Essen labor office?

A. No, Dr. Lehmann's agency.

Q. Oh. You mean you sent reports from France to Dr. Lehmann, is that it?

A. Yes, to the firm.

Q. And what did you include in these reports?

A. I reported on the manner in which the orders had reached the labor allocation agencies in Paris where these were regionally distributed. I also tried to find out if any workers had been assigned to Essen. As far as I could find that out, I reported

the previous professional experience of these people, from what firms they came, and particularly I had to inform the firm of the fact that they could expect the new allocation.

Q. Was this your sole task in France—to send back these reports to Dr. Lehmann?

A. Well, I had to visit the German offices, and particularly I had to transmit to these offices the requirements of the Krupp firm.

Q. To what offices did you transmit the requirements of the Krupp firm?

A. To the various labor allocation offices that concerned themselves with this function in France. There were other offices of the military commander—that was in the beginning—I believe they were called "Feldwirtschaftskommando" or something like that. There special experts were working who were given these notices from Paris, and who had to comply with the orders that were sent to them from the labor offices.

Q. Now, I don't altogether understand. You say you transmitted the requirements of the Krupp firm. What precisely do you mean by that?

A. I told these people what sort of people we needed, as far as professions were concerned, and I tried to find out from where they intended to get people for the Krupp firm. Then I saw to it that this assignment was carried out in accordance with the people's professions, and that it was reasonable in that respect. We were interested in getting skilled workers whom we could employ most advantageously, and who were put in their proper place in our firm.

Q. Well how did you see to it that you got such skilled workers?

A. I beg your pardon. I didn't quite understand what you meant.

Q. Well, how did you see to it that you got the kind of workers that you wanted?

A. I could tell the labor allocation offices, "We need a certain category of workers."

Q. Yes, but then how did you make certain that the workers supplied you fitted this category?

A. I had them tell me from what industries these people were going to be taken. I knew the requirements of the firm, and thus I could see whether the number was reasonable or not. For an example—this is perhaps an extemporaneous example at the moment—I want to mention that it would not have served any purpose to use people from a suitcase factory and put them in a machine shop that turned out heavy metal pieces; or people from a delicate mechanical industry should not be placed in a heavy

industrial machine shop. That would have been contrary to the professional ability of these people. They could not have done their job properly there and they themselves would have been dissatisfied.

Q. Then it was your task to see that the workers who were allocated came from plants that were doing work similar to Krupp, is that right?

A. Yes.

Q. Now when was this?

A. I beg your pardon.

Q. What time? This was your responsibility from the time you got to France in October 1942?

A. Yes.

Q. Now at that time groups of workers from an entire factory were being sent to Germany, weren't they?

A. Yes. It was tried on the one hand that these people should be taken in groups, that is to say, people of one firm including the management should be transferred to another firm in Germany *in toto* so that these people could remain together.

Q. I see. Now how did it happen that all the workers in one family, in one plant were agreeable to going to Germany? Were they consulted?

A. I don't know anything further about this operation.

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TRANSLATION OF LEHMANN DOCUMENT 152 DEFENSE EXHIBIT 1272

EXTRACT FROM THE AFFIDAVIT OF HERMANN BROMBACH, 10 MARCH 1948, DISCUSSING PROCEDURE OF RECRUITMENT OF DUTCH WORKERS

I, the undersigned, Hermann Brombach, living at Essen-West, Raffelbergstr. 5, having been warned that I render myself liable to punishment by making a false affidavit, declare herewith on oath that my statement is true and was made to be submitted as evidence to the Military Tribunal at Nuernberg, in the trial of Alfried Krupp et al.

From August 1942 until August 1944, I acted as liaison for Krupp with the Dutch Labor Allocation Offices in Holland. Already in May 1942, it had been projected by Mr. Erich Schweppenhaeuser, my deputy chief at that time, that a private recruiting office for voluntary workers should be established at Tilburg (Noordbrabant). This plan had to be abandoned, however, because

German firms were not permitted by the Reich Commissioner to recruit labor privately. Firms were only allowed—this was even welcomed by German offices—to send intermediaries to advise individual experts locally on questions of labor allocation for German firms, to eliminate the necessity of first sending written inquiries to the German firms. Dutch labor offices alone were instrumental in the recruiting, the contracting and the transport of workers, both when they had volunteered for work in Germany, or when they were under compulsion by the Dutch labor office to do so. They were also responsible for the distribution of labor to individual labor offices in Germany. The latter received directives through the special adviser attached to Dutch labor offices from the Main Social Administration Office (abbreviated HSV) at Amsterdam which was subordinated to the Reich Commissioner. The special advisers were experts, mostly Regierungsinspektors, sent to Holland by German labor offices. They acted as observers and were responsible to their superior office for the observance of HSV regulations.

About the middle of August 1942 I was sent to Holland by Krupp to act as liaison man between the German and Dutch authorities on the one hand and the firm of Krupp at Essen on the other. The firm's choice to send me to Holland was due to the following facts:

In the summer of 1942, Krupp at Essen employed a number of Dutch workers of various occupations, chiefly artisans engaged in the building trade, such as masons, carpenters, building assistants, glaziers, house painters, as well as locksmiths, turners, electricians, and assistants. As far as I know, these workers had voluntarily signed on for a year's contract in Germany. All relevant matters such as those connected with pay, accommodation, food, leave, and so on, increased to such an extent that their total developed into an excessive workload for the firm's offices, chiefly for the office for employee affairs and that of translations. Moreover there was a steady increase of cases where Dutch workers overstayed their leave without justification, that is to say broke their contract. The office for employee affairs was obliged, in such cases, to report such violations of contract to the Essen Labor Office, which then passed on the report to the HSV. In making reports of these violations of contract, misunderstandings frequently occurred with officials of the office for employee affairs, as also with those of the labor office, and the clarifying of these misapprehensions was part of my responsibility.

I lived at Hertogenbosch. Whenever cases of overstaying of leave became known, I participated in the inquiries which were made. The reasons for overstaying of leave were frequently given as illness of the workers on leave, or that of a member of

his family; death occurring in the family; clothes that had to be mended, shoe repairs, purchase of necessary garments or shoes, the latter especially after air raid attacks on Krupp's factory. In such cases I prevailed on the German special adviser concerned to prolong the period of leave on the ticket-of-leave, which was done in most cases with the remark "on your (that is to say, my) responsibility." Many a worker has personally thanked me after one of these talks. At Hertogenbosch the local special adviser for a long time gave me a free hand to prolong leave, and many a ticket-of-leave has my signature accordingly.

I also assisted Dutch workers, who had suffered losses and damages in air raid attacks on our camps, in drawing up their claims for damages. I distributed corresponding forms to individual labor offices and added information with regard to the execution of these forms. I had a great deal of work in this connection at the labor office of Bergen op Zoom, where approximately 150 claims for damages had to be dealt with. I repeatedly negotiated with the firm's office for war damages and saw to it that the respective Dutch workers received their indemnity payments for losses suffered.

I, personally, did not recruit workers, nor was I commissioned to do so by the firm. My work was purely administrative, both in the interests of Messrs. Krupp and in that of Krupp's Dutch workers. Besides, my activity in Holland relieved the office for employee affairs of much work.

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[Signed] HERMANN BROMBACH

EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS HERMANN BROMBACH[1] CONCERNING HIS AFFIDAVIT, BEFORE A COMMISSION

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CROSS-EXAMINATION

MISS GOETZ: Mr. Witness, in your affidavit (*Lehmann 152, Defense Ex. 1272*)[2] you say that Dutch labor offices alone were instrumental in recruiting or contracting, and the transport of workers, both when they had volunteered for work in Germany, or when they were under compulsion by the Dutch labor office to do so. What do you mean when you state they were under compulsion by the Dutch labor office? What was this compulsion?

[1] Complete testimony is recorded in the mimeographed transcript, 7 June 1948, pp. 11771–11791.

[2] Reproduced in part immediately above.

DR. WOLF (counsel for the defendant Lehmann)—Your Honor, the German expression used by the witness in his affidavit was "Dienstverpflichtung." The English translation seems to be "compulsion," which is a rather stronger term. Another expression for "Dienstverpflichtung" might be conscription to labor service.

MISS GOETZ: Mr. Witness, what do you mean by that German word Dienstverpflichtung?

WITNESS BROMBACH: When I say, "Dienstverpflichtung"—conscription to service—I mean that the Dutch labor offices pronounced conscription to labor service on a man on leave who did not voluntarily return to Germany. Those forms for conscription to labor service were printed forms, and I do not know exactly the wording on them, but on the basis of those forms the man was obliged to return to Essen, after his home leave, and to continue his work in Germany.

Q. Now, however, you apparently are talking in this sentence about persons who were going to Germany for the first time, aren't you?

A. Where do you find that? I am not quite clear about the question.

Q. Well, it is the fourth sentence in your affidavit after the opening. No, I think it is the third. No, it is the fourth. It is the fourth.

A. On the first page?

Q. The fourth sentence of the first paragraph. Perhaps I could find it in the German. It starts in—I am sorry, I can't do it.

A. I see what you mean now. Yes, the recruitment to labor service and the transportation was the job of the labor offices and I had nothing to do with it. I never transported people, and I never had the assignment to do so. I never—

COMMISSIONER FRIED: Witness, will you please answer the question put to you.

A. May I have the question once more, please?

MISS GOETZ: Now, in that sentence are you not referring to people who go to Germany for the first time?

WITNESS BROMBACH: Yes, that was when they went to Germany for the first time. Certainly these people—

Q. Now, what kind of compulsion or conscription to service was exercised to make these people go to Germany for the first time?

A. I believe there were two categories. The first category consisted of people who voluntarily applied, and the second category had been recruited—they were conscripted by the labor office to labor service in Germany. The second category of people—those

conscripted by the labor office—were selected from Dutch plants and sent to Germany, and they are the ones who fall under the "Dienstverpflichtung"; but I had nothing to do with and had no influence on the selection of these people.

Q. Did you ever visit any Dutch plants?

A. No, I have never been in a Dutch plant.

Q. Now, what happened to Dutch workers who refused to go to Germany?

A. Dutch workers who refused to go to Germany, in case they had already worked once before in Germany, were strictly warned to take up their work again. If they did not obey, then they were reported to the Dutch police; and the Dutch police, if they could catch the people—because usually they went underground and could not be found again—but if the Dutch police could find them, they would take them first to Germany at least to the German border and would hand them there to the German authorities. Later they were taken to Amersfoort.[1] However, as far as I am informed that happened very rarely. I myself had no influence on such procedure, and was never in a position to send people to Amersfoort, and was never in a position to influence other people to send anyone to Amersfoort. That was entirely an affair of the Dutch labor offices. It was not my job to intervene in any way in taking the people from their positions.

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EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS WALTER SCHIEBER, CHIEF OF THE ARMAMENTS DELIVERY OFFICE OF THE SPEER MINISTRY[2]

DIRECT EXAMINATION

DR. WANDSCHNEIDER (counsel for the defendant Korschan): I shall now begin my examination of the witness Schieber without limiting myself to any particular document but shall examine him on the questions arising from the three document books I have put in. Dr. Schieber, please tell what your position was.

JUDGE WILKINS, Presiding: Full name, first, please.

WITNESS SCHIEBER: Walther Schieber, 52 years of age.

Q. Spell the last name.

A. S-c-h-i-e-b-e-r.

Q. Thank you.

DR. WANDSCHNEIDER: Now please tell us what your position was during the war.

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[1] Collection center for compulsorily recruited Dutch workers.

[2] Complete testimony is recorded in the mimeographed transcript, 27 May 1948, pp. 9983–10022.

WITNESS SCHIEBER: Until 1941 I was active in private industry. From 1941 to the spring of 1942 I was with Reich Minister Todt, as a specialist in chemical matters; from spring of 1942 until October of 1944, I was chief of the Armaments Delivery Office in the Speer Ministry.

Q. Were you a member of the SS?

A. Yes.

Q. What was your rank?

A. On entering the Speer Ministry as an Unterstaatssekretaer [assistant secretary], I was an SS Brigadefuehrer [brigadier general] to which I was promoted in June of 1942.

Q. In my presentation of my case this morning, I have discussed a question of the employment of concentration camp inmates. Can you state whether there were directives from the Fuehrer regarding the use of the concentration camp inmates in industry?

A. There were several such directives promulgated. In the spring of 1942, I recall a particular case, and then in the course of 1944 there were several such directives.

Q. That was the spring of 1942, was it?

A. Yes.

Q. Could any branch of industry, either the iron mining or iron manufacturing industry, refuse to employ concentration camp inmates?

A. I do not believe that it is necessary to limit it to the iron producing or processing industry. So far as the Armaments Ministry ordered the employment of concentration camp inmates, there could be no objection raised against it by industrialists.

Q. Would such refusal or objection have been construed as sabotage of the war effort and punished accordingly?

A. I believe with a very few exceptions, no industrialist ever hit on the notion of offering any such objections.

Q. Are you of the opinion that the refusal to make objections could be traced back to such fear on the part of the person concerned?

A. Could you please repeat that question?

Q. If an industrialist had refused to—

MISS GOETZ: I object to the question—completely speculative at this point. He is asking him to state why no objections were made.

DR. WANDSCHNEIDER: I don't believe that question is speculative. It is perhaps hypothetical, and it is not particularly important to me whether it be answered or not, and I withdraw it. Were any technical or other type of difficulties ever pretended to exist on the part of an industrialist in order to avoid employing concentration camp inmates?

WITNESS SCHIEBER: Yes, particularly in the iron-producing industry, which several times attempted to avoid employing concentration camp inmates, by pointing out that their plants were so widespread that it was difficult to supervise and guard the inmates.

Q. Is it not true that one could dare to refuse to employ concentration camp inmates only by means of various subterfuges?

A. In general, I believe that no one ever had the notion of avoiding those orders either by subterfuge or otherwise, because if the State issues an order, then that order has to be obeyed.

Q. There was a coercion during the war to fulfill certain production quotas. Now in connection with this, I should like to ask you whether this compulsion to fill certain production quotas was conditioned also upon the allocation of workers by the Armaments Ministry?

A. Of course, the allocation was not, as you say, made by the Armaments Ministry, but was made by the Plenipotentiary General for the Allocation of Labor on the request of the Armaments Ministry.

Q. Is it true that industry as such was in general disinclined to employ concentration camp inmates instead of free workers?

A. I cannot answer that question from my own experience. I myself made great efforts to have the industrialists in my sector employ concentration camp inmates, and I do know that severe objections were raised against this by the industrialists, because many disagreeable aspects were connected with such employment, but when I personally, for technical and humane reasons, wanted to employ concentration camp inmates in the industries for which I was at least responsible, I heard more agreement to my plans than disagreement.

Q. Dr. Schieber, I would next like to ask you concretely whether it is true that the concentration camp inmates were frequently exchanged by the concentration camp managements?

A. That I cannot tell you.

Q. Is it true that the industrialists feared the consequences of security measures imposed by the SS when they employed concentration camp inmates?

A. Yes. That was one of the main difficulties involved in employing these inmates.

Q. Now we come to the point that you have already broached. You told the Tribunal that you were interested in the plan of the Armaments Ministry to employ concentration camp inmates in industry. Now let me put to you a few preliminary questions. What was the relation between the Armaments Ministry to which you belonged and the SS? First of all, now a few questions re-

garding the economic management of the SS itself. Did the SS itself make efforts to build up its own economy, both of a civilian and technical nature, without dependence on the free industry of Germany?

A. I don't believe you should say the SS here, but that you should say, Himmler. Undoubtedly, Himmler and a few of his top men* had a great interest in building up their own civilian and technical industry; and, first of all, certainly with the intention of arming their SS units, but also with the intention of acquiring the ability to produce for civilian consumption, too, so that they would occupy key positions in industry and could exercise total control over Germany.

Q. How did this effort of Himmler to obtain power in Germany in this way affect private industry. For example, did Himmler gladly assign concentration camp inmates to industry for industry's own purposes?

A. Certainly not.

Q. Are you familiar with cases in which it would have been necessary from the point of view of the economy of the whole country to employ concentration camp inmates in industry, outside the concentration camps, in which cases Himmler or the SS camp leadership refused to allow them to be employed?

A. Yes, and therein lay the sharp difference of opinion between at least a part of the Armament Ministry and those responsible in the Reich Leadership SS for the allocation of concentration camp inmates.

Q. When concentration camp inmates were employed in the concentration camp was there any difference between this sort of employment, and employment in industry itself?

A. Yes, there was. While the Armaments Ministry in its various subdivisions had full responsibility for the production under its charge, it had no influence upon the production in the so-called concentration camp factories. For example, it had to make available the quotas of iron and other raw materials to the concentration camp factories.

Q. Will you please answer that question with relation to the point of view of the concentration camp inmate himself?

A. That is very difficult to do, when one has not been an inmate oneself and here I must say that the accommodation of a concentration camp inmate outside the concentration camp were significant in two basic ways, and I shall put the factual point first. In the concentration camps themselves at a time when there were hardly any more skilled workers available in Germany, the concentration camps had a great number of them. Consequently, if

* See Pohl Case, United States *vs.* Oswald Pohl, et al., Case 4, Volume 5, this series.

industry lacked skilled workers and they were available in concentration camps, it was better and more reasonable all round to employ them where they would have the greatest effect. Now, in addition to this practical side there was what is for me the decisive point; that is to say, the humane side of the problem. Now as between a German employee being conscripted and required to leave his family and go a distance of one or two hundred miles, and a concentration camp inmate who left the camp and worked in a well-run factory, there really was no essential difference, even though this man from the concentration camp never really escaped the barbwire, nevertheless, according to my personal feeling, spiritually at least this man had a better opinion of himself, and more self-respect, when he was no longer confined within the concentration camp, but was employed outside of it.

Q. Now, this second point of view that you consciously put in second place, the humane consideration, is that a post facto consideration that you have developed since the war, or did you at that time, despite the fact that you were an SS member, have that view during the war?

A. Dr. Wandschneider, I told you that at that time these two considerations were definitive for me.

Q. Did you express these views of yours at that time?

A. Yes.

Q. Did you support them publicly?

A. Yes. One time in a letter written in the beginning of May 1944 confirming a discussion previously had with Minister Speer, I explicitly pointed out these two aspects of the problem which I have just mentioned to the Tribunal; on the one hand the technical considerations, and on the other hand the humane considerations, and I recall very precisely that at the conclusion, I beseeched Minister Speer, through personal negotiations with Himmler, to make it possible that the previous possibility of transferring concentration camp inmates to private—and I emphasize "private"—industry should again be made possible, because I felt it to be my duty to see to it that more concentration camp workers were taken from the concentration camps and employed in private industry.

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Q. Dr. Schieber, in building up an independent SS industry, both in the civilian and military fields of productions, did you find that to be a misuse of both material and human capital?

A. Yes.

Q. Is it correct that for this reason you, from the Speer Ministry, had continual differences of opinion with Himmler?

A. I did not have continual differences of opinion with Himmler,

but only when it came to the question of the employment of concentration camp inmates in private industry, when I was interested in preserving the independence of private industry.

Q. This letter that you wrote to Speer in May 1944 contains an open criticism of certain of Himmler's methods. After you had expressed yourself in this way did you have any unpleasant consequences as a result? Did anything happen to you later?

A. Yes, but I believe that is not a subject of this examination. In 1944 as I told you, in October I was fired from the Ministry on Bormann's orders. This is a course of events which, unless the Tribunal wishes otherwise, I would rather not go into since it has no connection with this case.

Q. Bormann was chief of the Party Chancellery?

A. Yes.

Q. Did Kaltenbrunner play a role in this, too?

A. Yes.

Q. Is it true that you—not you personally, but the Speer Ministry—furthered the employment of concentration camp inmates by industry?

A. Will you please repeat your question?

Q. Is it true that the Speer Ministry furthered the employment of concentration camp inmates by industry?

A. The Speer Ministry ordered the employment of concentration camp inmates in industry.

DR. WANDSCHNEIDER: I have no further questions. The witness is available for cross-examination.

JUDGE WILKINS, Presiding: Any other questions by the defense?

DR. WECKER (associate counsel for the defendant Krupp von Bohlen): Dr. Schieber, when my colleague, Dr. Wandschneider was examining you, the connection between the compulsion to produce and the foreign worker question was adumbrated. On 14 January 1948 you gave an affidavit dealing with this compulsion to produce.*

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In this affidavit, Dr. Schieber, you speak of the compulsion to produce, that is to say, the coercion exercised by the state authorities on the national economy to fulfill certain production quotas issued by the State to the industries. Can you please tell us, and by citing a few examples, what the consequences were if industrialists refused or objected or attempted to refuse to fulfill such quotas?

WITNESS SCHIEBER: A refusal to meet production programs

* In view of the extensive testimony following on this point, this affidavit has not been reproduced herein.

does not occur, in general, in an orderly state which is at war. I am furthermore of the view that when you speak of the coercion to production, that you might just as well call it a self-evident duty or task to produce. Of course, there were individual cases in which the industry, because of technical or also personal reasons, attempted not to fulfill these production quotas to their extent, or not to fulfill them at all.

Q. Can you give me a few examples of the consequences that would have followed or that did follow such efforts on the part of individual industrialists?

A. The simplest example of that is probably the Krupp firm itself. You know probably better than I do that, in the view of a high official in the Speer Ministry, Krupp's production record in the Bertha Works was not exactly all that could be expected, and there were certain disagreeable show-downs as a consequence. The Ministry decided to take the management of the Bertha Works entirely from the hands of the Krupp firm and to put them in the hands of a man who had nothing to do with the firm, I believe from the Schichau Shipyard.

Q. Could you please give us another example?

A. I have already said that we did not have to exert much effort to persuade a German citizen to carry out his orders and duties, but there were a few who didn't. For example, I remember an incident that took place here in Nuernberg where Faber, the pencil manufacturer, perhaps for egotistical reasons, was not ready to carry out a centralization of his manufacturing processes, for which reason his own factory and plant was taken away from him. I could cite the Oskar Henschel case in Kassel, the famous machine factory. Oskar Henschel was a very stubborn man, and perhaps also although one cannot see into a person's soul, he had a pretty clear disapproval of the then government. At any rate, he was treated in an even more severe way than the Bertha Works. The leading man of the Vorstand and the family itself was removed from the plant and replaced by—I am not sure whether it was an outside engineer—at any rate, they were replaced. I also know that shortly before I left the Ministry, there was a very dramatic instance, an outright Westphalian bullhead, who had previously been with the Hermann Goering Works and who was then employed in the Berghuette Ost, then had his own plant in Slovakia or Czechoslovakia, refused to carry out a very vital production program. I know that after I left the Ministry—let me say that I was in the Ministry when he refused, and then after I left the Ministry, I followed the matter—this man was placed before the Peoples Court, and I believe condemned to death.

Q. Are you referring to the Werthmann case?

A. Yes, that's the one.

903432—51——54

Q. Dr. Schieber, in connection with this Werthmann case, the question has arisen in this Court whether the coercion of conscience, namely the fact that the entrepreneur did his duty in fulfilling production programs, precluded this coercion exercised by the State. In other words, whether these two forms of compulsion, the sense of conscience and the coercion exercised by the State, are mutually exclusive. This is almost a philosophical problem, but I believe that on the basis of your experience you are in a position to say whether this thesis is true.

A. That isn't a philosophical question at all, but a practical one. I believe that for the vast majority of German plant managers the moral coercion, namely the duty, stood in the absolute foreground; but let me point out that if there is moral obligation, criticism does not, therefore, have to cease. In our case criticism, however, did cease. For this reason, that the combination of moral duress and outward State duress were combined. Every plant manager was certainly ready to do his duty to the State, but the fact that he didn't express criticism at that time as he would express today is due to the nature of the coercive nature of the government we had at that time. Also in addition to the inner spiritual or moral compulsion that a person felt, there was also the compulsion to consider one's family, and I believe in general one can say that the external compulsion by the State simply led to the fact that the internal compulsion was less obeyed.

Q. Undoubtedly, Witness, the Werthmann case was tragic, but can you describe the consequences of such measures as for instance in the case of the pencil manufacturer Faber who was dispossessed, or in other cases where an administrator was appointed, what were the consequences?

A. I have already described the outward consequences, but what is decisive is the nature in which public opinion was directed, the defamation of such a man who opposed the State. This defamation was so severe that I believe any reasonable man would have seen to it that he avoided it.

Q. How did this defamation express itself?

A. It would hardly be possible for me to list all these defamations one by one. In general, it wasn't defamation from above, but from in the man's neighborhood or from the man on the street, the block leader, or the children, for example. You know how difficult from 1943 on or how severe the leadership of the people and of industry in the whole state became after 1943.

Q. Now, another subject, Dr. Schieber. Can you tell us what reputation the Krupp firm enjoyed in the offices in Berlin, that is to say, the highest governmental authorities?

A. The Krupp firm was a problem child for us. We were aware of its capacity to produce and to do research development, but

during the 3 years of pretty close collaboration with them which we had with the gentlemen of Krupp, we were always able to reach some sort of agreement; but I must point out that first of all there were offices in the Ministry that were not at all satisfied with Krupp's organizational setup. Moreover, it was not always easy for us and it was not always possible for us to keep the Krupp firm in line, if I may use that military term.

Q. Witness, you just spoke of the possibilities of development of materials at Krupp. What do you mean by development which was previously translated as "research"?

A. I mean the development of new productive methods for crankshafts for example. That is the part in which I can make statements. We wanted to develop a way of producing crankshafts very economically and for that the responsible men of Krupp with their large practical experience were very cooperative.

Q. That was merely a clarifying question, Witness. What do you mean when you used the term "problem child" about Krupp?

A. These caused us difficulties. That can't be summarized briefly. We had lots of difficulties with them.

Q. Very well.

DR. WECKER: No further questions.

JUDGE WILKINS, Presiding: Any other questions by the defense? Any cross-examination, Miss Goetz?

CROSS-EXAMINATION

MISS GOETZ: Mr. Witness, when did you join the Nazi Party?

WITNESS SCHIEBER: In July 1931.

Q. What was the highest position you held in the Party?

A. Provisional Gau Economic Advisor. As I already said, SS Brigadefuehrer.

* * * * * * *

Q. You were also a member of the Leadership Corps of the Nazi Party, were you not?

A. Yes, in the capacity as Provisional Gau Economic Advisor.

Q. When did you join the SS?

A. Either in the autumn of 1933 or the spring of 1934.

Q. My information is 1 June 1933, and that your number was 1641947.

A. That number is right.

Q. And you received your first promotion in the SS in 1934 to SS Sturmfuehrer, and in 1941 you became an SS—

A. SS Sturmfuehrer.

Q. Now, what were some of the honors you received from the SS?

A. First of all I was promoted rather rapidly, secondly I re-

ceived the SS Sword and the Ring of the Reich Leader SS [Himmler].

Q. What honors did you receive from the Nazi State or Party?

A. On 30 January 1939 for setting-up cellulose factories and for manufacturing celluloid from potatoes I received the Golden Party Emblem. In addition, I received from Minister Speer in the autumn of 1943 the Knight's Cross.

* * * * * * *

Q. Now, you have testified as to the compulsion used and the method used to get concentration camp labor. I'd like to clear up a few points. In the first place, what did Sauckel, Plenipotentiary for Labor Allocation, have to do with the allocation of concentration camp labor?

A. Until 1944, nothing.

Q. How was the allocation of concentration camp labor handled up to 1944?

A. Either via the Ministry or through an agreement between industry and with the SS Main Office under Pohl.

Q. Isn't it true that the industrialists negotiated directly with the SS for concentration camp labor?

A. Undoubtedly, industrialists did negotiate directly with the SS for concentration camp inmates.

Q. Do you remember telling Mr. King of the Ministries Division under oath that, "The use of concentration camp inmates in most cases resulted from direct negotiations between industries and the SS Administrative Office, department Gluecks, and Maurer, and the number I would put at 35 to 40 thousand at the utmost; there a different regulation existed."

A. There is an error here. Two ways of employing concentration camp inmates were enforced. The one that I just explained to the Tribunal and the one that went via the Ministry. On the basis of an agreement between Speer and Himmler, those concentration camp workers who were assigned to industry via the Ministry were to give back to the concentration camp administration 5 percent of the proceeds resulting to them in the form of munitions or armaments. Within the framework of this plan, 36 thousand inmates were employed in industry. However, both before and after that through direct negotiations between industry and the SS Main Office, so far as I know, about two hundred fifty to two hundred sixty thousand concentration camp inmates were assigned to industry.

Q. Now, when you were talking about direct negotiation between industry and the SS in regard to this 250 to 260 thousand, what do you mean by "industry"? You mean the individual plants or enterprises negotiated directly with the SS?

A. Yes.

Q. Now, do you happen to know how Krupp received an allocation of concentration camp labor at the Bertha Works?

A. No.

* * * * * * *

Q. Now, Mr. Witness, you stated that in 1944 there was some change in the allocation of concentration camp labor. Was this after you left the Ministry, or do you know what the change was?

A. These alterations which I spoke of took place before I left. We ascertained that a large number of the workers employed in the armaments industry did not return to their plants once they had committed any offenses, but that they were subsequently put, and worked, in the plants that belonged solely to the SS in the concentration camps, and that is why I brought up this matter in a personal letter to Speer. Let me remind you once more, or to aid you, that I testified in the middle of June 1947, that is to say I was interrogated on this whole subject.

Q. Now, what was the change that resulted in consequence of your letter, what was the change in the allocation, in the method of allocating concentration camp labor? You testified that before that it was done by direct negotiation between the plant and the SS.

A. No, Miss. Two entirely different things went along side by side. Before 1942 it was provided that the employment of concentration camp inmates should go through the Ministry on the basis of the agreement between Speer and Himmler, with this 5 percent armaments indemnity. Then the quarters negotiating directly with Pohl took workers directly from the concentration camps. The Speer-Himmler agreement was reached in 1942, but, as you stated correctly before, it was not successful, and only when we were no longer receiving enough workers allocated to us by the Plenipotentiary General for Labor Allocation, and observed the very favorable work results on the part of concentration camp workers, and could cite these results from our own experience, we then in 1944 in the spring urged that the labor allocation of concentration camp inmates should be carried out through the Ministry, and shortly before or shortly after my leaving, I believe it was shortly before, an order was issued by Speer according to which the direct negotiations between industry and the SS regarding the allocation of concentration camp inmates was no longer permissible.

Q. Now, thereafter, when an industry desired concentration camp labor, what did it do?

A. I don't believe that there was one industrialist who actually requested concentration camp inmates. He simply asked for man-

power. When he did so, he had to go to the labor office competent for him, or to the competent leader of the committee and ring.

Q. I think you then had to go to see Maurer of Amtsgruppe D to get the assignment of concentration camp labor. Did not the SS have to look over the plant to see if it was suitable?

A. Of course.

Q. So then it was impossible, was it not, to get concentration camp labor, unless you could specify to the SS that you had the proper facilities, and this always required direct negotiations, didn't it, even after 1944?

A. I can't say anything about what happened after 1944, of my own knowledge, because as I said I left in 1944.

* * * * * * *

Q. Now, was it true that the SS was very reluctant to assign concentration camp labor to private industry and considerable pressure had to be applied to make available concentration camp inmates?

A. In practice, there were many assurances given by the SS that we of the armaments ministry would have manpower allotted to us. The fact that there were so many such assurances prove that they were not kept. I recall a discussion with Hitler in which Himmler promised Speer 100,000 concentration camp inmates, and one year later as you know, we received hardly 30,000 of that number.

Q. Now did the SS often state that the industry wasn't in a position to accommodate these concentration camp workers, that they couldn't provide the guards, etc.?

A. That second point that you mentioned, that is the guards, was always emphasized by the SS. They couldn't produce the numerous guards which were necessary in order to have the necessary security if concentration camp inmates were to be employed in industry; on the other hand, I, in my competency in the supply industry, expressed the opinion, that very few guards were necessary in such employment. It depended on the good will of the SS whether or not they chose to supply these workers.

Q. So that even after concentration camp labor had been promised to a particular manufacturer, he still didn't obtain it unless the SS was satisfied that he had the proper facilities, is that correct?

A. If I approved them, then the plant got them.

Q. Got what?

A. If I assured the plant manager that he would get so many concentration camp inmates, then he got them.

Q. But it did happen, did it not, in industries not under your

supervision, for example the armament industry—I can, as a matter of fact, give you a specific example, as Krupp?

A. I think there must be many such examples.

Q. Well, then any industrialist, if he really didn't want to hire concentration camp labor—strike that out. Now providing these facilities represented an expense to an industrialist—did it not?

A. They had to build barracks and set up separate quarters for the concentration camp inmates and guard them.

Q. Now isn't the picture of German armament something like this—that from 1942 on, the labor situation became increasingly worse, in 1944 it was of the utmost seriousness. There were no new supplies of labor available; that every manufacturer was competing with every other manufacturer for labor; and that far from having to apply any coercion or compulsion to a laborer, you generally had to reject demands for all labor?

A. No; if you take 1943 instead of 1944, then you are certainly correct, but in 1944 the situation was as follows: we had manpower, but no place for them to work at. The destruction had become enormous, and in addition the finding of raw materials, particularly from the summer of 1944 on, caused enormous difficulties. But if you are saying that the various industries competed with one another, I must say that they could not do that at all. The industries had workers allotted to them which the Central Planning Board had approved for that particular sector. I can give you a cogent example from my own experience—I demanded 40,000 men for the iron processing industry and had only 20,000 approved. I and my coworkers distributed these 20,000 workers to the individual firms. The industrialist could holler his head off, but he only got what we, who were responsible for the allocation, cared to give him. You perhaps know the red check procedure. The grade 1–A priorities were written on red checks.

Q. That is enough, Witness. As you have indicated, however, you were not able to satisfy the demand for labor with the labor available. Just as you were cut, you had to cut the people applying to you for labor. Did you ever have any experience therefore with actually having to coerce or compel anyone to take labor? Wasn't the pressure just the other way—that they would try to get you to give them more labor?

A. Certainly, the people came to me and asked for manpower.

* * * * * * *

REDIRECT EXAMINATION

DR. WECKER: Dr. Schieber, you have just stated to the prosecutor that people came to you asking for manpower. May I ask you, why did they do so?

WITNESS SCHIEBER: Because I had given them a very specific manufacturing program and because they believed that the workers which they had to fulfill this program were not sufficient for them to do their duty.

Q. You told Miss Goetz something about your own personal history. I have two additional questions in that regard. After the capitulation you were interned, were you not?

A. Yes.

Q. Are you now at freedom?

A. I have been for 6 weeks.

DR. WECKER: Thank you. No further questions.

JUDGE WILKINS, Presiding: Do you have any questions?

EXAMINATION BY TRIBUNAL

JUDGE ANDERSON: Yes, I want to ask him one or two questions.

Witness, if I understood your direct examination, you said that industry in general regarded it as their patriotic duty to do what they could to live up to these production schedules, or did I understand you to that effect?

WITNESS SCHIEBER: Yes.

Q. Did you ever in fact encounter any unwillingness on the part of industry in general or the firm of Krupp in particular to do whatever they could to meet the production schedules which you set?

A. Yes.

Q. Now was that in general? I shouldn't have asked a double-barrel question like that. Did you encounter any unwillingness on the part of the firm of Krupp?

A. It criticized, although it should not have according to its duty. You recall that I have already mentioned Krupp as our problem child, and it criticized whenever it felt innerly obliged to do so.

Q. I am not speaking now of criticism. That might perhaps have been in respect to methods—and while we are on that subject—one criticism of it was that one of the things that made it a problem child among others was that the government, the Wehrmacht, or the OKW were demanding that they disclose their techniques or secrets in their production according to their competitors?

A. So far as my sphere of responsibility is concerned, I cannot corroborate that.

Q. Perhaps that is not in your field, but I am not speaking of criticism now. What I want to know—you have stated that industry regarded it as a patriotic duty to do what they could in aid of the war effort by meeting these production schedules. Well, now did that apply to the firm of Krupp?

A. Yes, unequivocally.

Q. Notwithstanding that they might have differed with you about the means and the methods?

A. That is right.

Q. Well, there is nothing unusual about private industry being critical of bureaucratic methods of government, is there? That is not uncommon in any country.

A. Krupp didn't so much criticize bureaucratic methods as this—it was afraid of the ruthlessness with which an opinion that was soundly based on fact was thrust aside by the authorities and if necessary answered with the exercise of compulsion by the State.

Q. Well, that is equivalent to saying that it is a very common thing that Krupp thought it knew more about running its business of producing armaments than the bureaucrats in the government? That is what it about adds up to, isn't it?

A. I wanted to say that and even more; namely, particularly in Krupp's case, several times Krupp sharply repudiated what is implied in the word "commissioner" with respect to a directed or controlled economy. As the war became more severe, the armaments ministry decided, through its so-called deputies or commissioners, to put private industry under very considerable pressure and because of this method it was particularly the firm of Krupp that took exception.

Q. That made it a problem child?

A. That didn't make it my problem child, but it made it the problem child of the offices who had appointed these commissioners. When I spoke of a problem child, it was because of something that is not even clearly understandable to me today, Mr. President. There was a sort of inactivity on their part. We always had to tell Krupp something ten times, which we only had to tell some other factory just once. I am still not clear in my mind today what the reason for that was, but when I speak of problem child, that is what I was thinking of, and if I speak of a problem child in the Ministry, that is what I just explained to you, namely that the Krupp firm opposed the appointment of the so-called plants commissioners to a very remarkable degree.

Q. Well, now, in your experience there is nothing unusual for a private enterprise that has been successful many, many years objecting to the government putting a man down there telling them how to run their business? Nothing strange about that, is there?

A. In Germany it was to say the least dangerous, if not actually dangerous to one's very life.

Q. Well, you obviously didn't understand my question. What

I am trying to get at is this. Let's put it this way—now, it is true, isn't it, that this firm of Krupp was one of the most successful and most efficient business organizations, not only in Germany, but in Europe?

A. So far as I can judge from my sector, yes.

Q. Well, it was a highly successful organization from the standpoint of efficiency, wasn't it?

A. I should like to contradict you, Your Honor, and say the following: We called the Krupp firm the "Reichsbahn" of industry.

Q. What? I didn't get the word.

A. The state railway of industry—implying that it was inefficient.

Q. The government regarded it as inefficient, is that what you say? The Krupp firm?

A. It was efficient, but extremely hard to get along with.

Q. Well, it was hard to get along with when the government wanted to interfere with the methods it used to run its business?

A. Maybe. I don't know that.

Q. Now here is what I hope I can finally get at, to find what the facts are about this matter. There wasn't any unwillingness on the part of Krupp to try to meet the schedules—the production schedules?

A. There was certainly no unwillingness—

Q. Just a minute, I haven't finished my sentence. But it was of the opinion that if it was left to pursue its own methods, which it had developed over the period of many years, that it could do better along that line than it could if the government dictated the methods. That is what you want to say, isn't it?

A. No, I believe that during the war the Krupp firm—at least, I certainly hope that it did not pursue private industrial interests during the war. The first thing you say, however, was correct—that Krupp was a really efficient plant, but we were also of the opinion that the Krupp firm did not pursue its duties very actively, but behaved in a passivistic manner, which in view of the conditions in Germany at that time was quite unusual. That is the way I interpret the Krupp attitude.

Q. Did your government consider that as an unwillingness to put forth the efforts to produce all the government required?

A. I can't tell you anything about the armaments sector, but I believe that from my sector the Krupp firm wanted to show that the methods by which the Armaments Ministry wanted to control and direct the production were not methods with which they were in accord.

Q. That is what I said in the beginning, and we could have saved a lot of time. It was a disagreement only about methods

and not about the extent of the demands made upon it, but just about methods, isn't that it?

A. Yes.

Q. Did you know Gustav Krupp von Bohlen?

A. Yes.

Q. He was a very, very influential man in Germany, wasn't he?

A. Yes, I believe so.

Q. He was a personal acquaintance of Hitler's?

A. Yes, that is right.

Q. And he, on behalf of his firm, received numerous commendations; perhaps decorations, at the hands of the government, for the work that the firm had performed in armament production, isn't that correct?

A. I don't know for sure, but I think it is right.

Q. Did you ever discover anything on the part of Gustav Krupp von Bohlen, or any of the Krupp officials, to indicate that they were in any sense unpatriotic in the sense that you have spoken of it here?

A. Not unpatriotic. I have never seen any sign of unpatriotism. I do remember a statement made by the old gentleman when I said to him that it would be a good thing if he could give his son some of the energy he had himself.

Q. Now, this further question. In your experience with industry in general, was there ever any objection to these production quotas that were assigned to them, or the requirement that they be met, on the ground that it would be necessary to employ foreign workers in order to meet them? I am not speaking about concentration camp inmates now.

A. I don't think that question can be answered in the negative, but let me add the following: Industry only too often said that it was simply impossible to fulfill its tasks with the quality of the workers that were being assigned to it.

Q. The objection was that they were not as skilled—didn't have the quality—the skill that was necessary. Was that the only objection?

A. Mr. President, I don't know whether you know that unfortunately if an industrialist in 1943 and 1944 received a few hundred foreign workers, twenty or thirty of them were children, whom, of course, he couldn't use at all. I don't know if you know that if a man asked for about 300 workers he got about 100 women, whom he couldn't use either. Our demands to our industry regarding their production programs were great and severe, and the assistance—

Q. Now, Witness, I don't want to be discourteous, but you are not being helpful by going into all that. I asked you one ques-

tion, whether the objection was not to the fact that foreigners were being employed, but the quality of the laborers available from that source. That is the way I understood you. Is that what you said?

A. Mr. President, could you please state that antithesis once more? I didn't quite understand it.

Q. I understood you when I was asking you whether there was any objection to the meeting of these quotas on the ground that in order to meet them, the German workers not being available, that industry would have to employ foreign workers. I understood you to reply that they did object on that ground because of the quality, implying the poor quality of the workers.

A. Yes, that is correct.

Q. And it was not because they were foreigners?

A. No, it was based on the fact that the allocated manpower was not in any way fit to carry out those very specialized and strict production programs.

Q. In other words, if the foreigners had been as skilled, or substantially the equivalent of the German labor that had theretofore been employed, there wouldn't have been any objection at all, and they could have met the quotas?

A. I certainly don't think I should have raised any objection nor do I think anyone else would have either. I am myself an industrialist, and so have some basis on which to speak.

Q. You never heard of any?

A. I heard objections to the employment of prisoners of war.

Q. Oh, yes, I am not talking of prisoners of war. That is in a different category. All right. Thank you. Judge Wilkins.

JUDGE WILKINS, Presiding: The witness may be excused.

TRANSLATION OF KORSCHAN DOCUMENT 63
DEFENSE EXHIBIT 2185

AFFIDAVIT OF HANS LEYERS, 6 APRIL 1948, STRESSING PRESSURE USED BY GOVERNMENT AGENCIES TO INCREASE PRODUCTION

I, Dr. Ing. Hans Leyers, born 5 March 1896 in Duesseldorf, residing at Duesseldorf-Benrath, Regerstrasse 3, have been duly warned that I render myself liable to punishment for making a false statement. I declare hereby on oath, that my statements are the truth and were made in order to be submitted as evidence to the Military Tribunal III A, Case 10, at the Palace of Justice, Nuernberg, Germany.

From May 1940 until 13 September 1943 I was with the Army

Ordnance Office in Berlin. In this position I had to deal also with the Bertha Works at Markstaedt.

On 5 March 1942 a discussion took place at the Fuehrer Headquarters, at which in my presence the then Dienststellenleiter Saur spoke on the weapon delivery programs. Hitler in this discussion demanded an output of 600 light field howitzers per month. Saur stated that this production would chiefly concern the plant newly to be erected near Breslau by the firm of Krupp. On 6 March 1942 General Leeb informed Krupp, that because of a decision by the Fuehrer all preparations for the erection of the armaments works near Breslau should be started on with all speed. In a letter dated 31 March 1942 I confirmed to the firm of Krupp the program of 400 light field howitzer barrels with breech ring and breech lock and 100 heavy field howitzer barrels with breech ring and breech lock fixed for the Bertha Works. On 8 April 1942 Mr. Reiff from Krupp had a discussion with me on the basis of the contract between the army ordnance office and Krupp on the gun factory to be erected. On 29 May 1942 I informed the firm of Krupp in Breslau that the construction project for Markstaedt should be reduced to 250 light field howitzer barrels with breech ring and breech lock, 100 light field howitzer reserve barrels and 100 heavy field howitzer barrels. Initially gun carriages should be produced in their place, but the construction planning should be carried out in such a manner, that later the gun carriages could be produced side by side with the guns. Markstaedt was finally to become an emergency office for gun construction by Krupp in Essen. Construction volume RM 60,000,000. On 23 June 1942 a discussion took place in the Army Ordnance Office with several gentlemen from Krupp, at which the following was agreed upon as the program for Markstaedt: 400 light field howitzer barrels, 100 heavy field howitzer barrels, 40 12.8-17 cm. barrels. On 13 August 1942 Mr. Saur informed us that Markstaedt in accordance with an order by the Fuehrer dated 25 July 1942 was to be planned for the assembly of 600 light field howitzers. This program was fixed at a discussion on 27 August 1942 in the Main Committee Weapons, in which I took part. On 26 November a corresponding war order was given. The Ordnance Office demanded by 30 April 1942, 100 light field howitzers; by May 1943, 150 light field howitzers; increasing this each month until by December 1943 the output of 600 light field howitzers was to be reached. On 5 January 1943 a discussion took place at the Army Ordnance Office in the presence of General Leeb, at which it was again demanded that the manufacture of light field howitzers be pushed ahead with all means and that those guns be available in spring. Since new difficulties arose in adhering

to the planned program, Mr. Saur paid a visit to Markstaedt on 15 April 1943. I took part in this visit. The completion of Markstaedt to the greatest possible extent with the greatest pos-
light field howitzers 18 were to be manufactured, secondly 12.8
Office informed the firm of Krupp that in Markstaedt chiefly 600
light field howitzers 19 were to be manufactured secondly 12.8
guns mounted on motor vehicles L/55 and 12.8 guns for dive
bombers [Stukas] L/55. On 28 May 1943 Mr. Lange of the Muni-
tions Ministry in Berlin stated that Krupp would have to count on
the appointment of a commissioner, if the production of 100 light
field howitzers were not reached in June 1943. Up to my de-
parture from the Army Ordnance Office in September 1943 I was
able to prevent the appointment of a commissioner for the Bertha
Works as threatened by the Munitions Ministry.

The management of the Bertha Works from the very beginning was under enormous pressure from all state offices concerned, particularly from the Armament Ministry, which the works management could not escape under any circumstances. The later appointment of a special commissioner for the plant by the Armament Ministry occurred because the measures taken by the works management were not considered sufficient by this ministry. For the authoritative gentlemen of the works management in Markstaedt very serious consequences would have resulted had they not complied with the demands made by the state offices.

[Signed] DR. HANS LEYERS

TRANSLATION OF MUELLER DOCUMENT 21
DEFENSE EXHIBIT 2397

AFFIDAVIT OF HANS LEYERS, 20 MARCH 1948, CONCERNING RELATIONS BETWEEN THE ARMY ORDNANCE OFFICE AND KRUPP IN CONNECTION WITH DEVELOPMENT OF THE 3.7 CENTIMETER ANTI-AIRCRAFT GUN

I, Dr. Ing. Hans Leyers, born on 5 March 1896 at Duesseldorf, residing at Duesseldorf-Benrath, Regerstrasse 3, know that I render myself liable to punishment by making a false affidavit. I declare under oath that my statements correspond to the truth and were made in order to be submitted as evidence to the American Military Tribunal III at Nuernberg.

From 1940 to 1943 I was chief of the Arms Procurement Department with the High Command of the Army (Army Ordnance Office).

Even several years before the start of World War II the firm of Krupp was busy on developing automatic guns of small caliber

for foreign countries. On account of this they aroused the interest of the Army Ordnance Office, both parties regarding it as a basic assumption that several years of research work would be needed before any tangible results were achieved. During World War II, it was about 1941, the Army Ordnance Office placed two simultaneous commissions for the development of a 3.7 cm. anti-aircraft gun, one with Krupp and one with Rheinmetall.

When later on the question arose as to which development should be introduced in practice, it became apparent that Krupp had no manufacturing shop. At that time the Army Ordnance Office considered the project of having the Krupp gun equipment manufactured at Auschwitz. However, this plan never led to any tangible results, because Krupp's difficulties with regard to manufacture induced the Army Ordnance Office to decide on introducing the weapon developed by the firm of Rheinmetall.

In this case, too, it became apparent that the firm of Krupp did not show any proper understanding for the wishes of the Ordnance Office.

Duesseldorf-Benrath, 20 March 1948

[Signed] DR. HANS LEYERS

TRANSLATION OF MUELLER DOCUMENT 64
DEFENSE EXHIBIT 3105

AFFIDAVIT OF HANS LEYERS, 15 DECEMBER 1947, CONCERNING THE PARTICIPATION OF DEFENDANT MUELLER IN CONFERENCES WITH HITLER

1. I, Dipl. Ing. Dr. Hans Leyers, formerly a member of the Army Ordnance Office, residing in Duesseldorf-Benrath, Regerstrasse 3, born 5 March 1896 in Duesseldorf, am aware that I render myself liable to prosecution if I make a false statement on oath. I declare on oath that my statement is true and that it was made for use as evidence at the Military Tribunal, Palace of Justice, Nuernberg, Germany.

2. Whenever I was present at meetings at the Fuehrer Headquarters, Prof. Dr. Mueller never played an important role which could have given the impression that he especially enjoyed Hitler's confidence as far as armament questions were concerned. Only Todt or Saur reported for instance about questions concerning production. Dr. Mueller only answered direct questions concerning purely technical details.

[Signed] DR. LEYERS

TRANSLATION OF MUELLER DOCUMENT 65
DEFENSE EXHIBIT 3106

AFFIDAVIT OF HANS LEYERS, 15 DECEMBER 1947, CONCERNING MEETINGS WITH DEFENDANT MUELLER

1. I, Dipl. Ing. Dr. Hans Leyers, formerly a member of the Army Ordnance Office, residing in Duesseldorf-Benrath, Regerstrasse 3, born 5 March 1896 in Duesseldorf, am aware that I render myself liable to prosecution if I make a false statement on oath. I declare on oath that my statement is true and that it was made for use as evidence at the Military Tribunal, Palace of Justice, Nuernberg, Germany.

2. I do not know of any case in which Prof. Dr. Erich Mueller in meetings with me appeared as a champion of National-Socialist doctrines.

Political questions were never discussed at all. All discussions were restricted to factual matters exclusively.

It happened, however, that Dr. Mueller and myself together frankly expressed our aversion to plans of certain representatives of the ministries, particularly of HDL [Hauptdienstleiter] Saur, Todt, and Speer.

[Signed] DR. LEYERS

EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS HANS LEYERS[1]

DIRECT EXAMINATION

DR. WANDSCHNEIDER (counsel for the defendant Korschan): Please state your personal data. Name?

WITNESS LEYERS: Hans Leyers.

Q. When were you born?

A. 5 March 1896.

Q. I shall now put an affidavit to you dated 6 April 1948 from Korschan document book 2 (*Korschan 63, Def. Ex. 2185*).[2] Please look at this affidavit and state whether or not it is yours and whether you have any corrections or amendments to make.

A. It is in order.

Q. Any changes or corrections?

A. No.

DR. WANDSCHNEIDER: In that case the witness is available for cross-examination.

[1] Complete testimony is recorded in the mimeographed transcript, 4 June 1948, pp. 11254–11286.

[2] Reproduced above in this section.

DR. REITZENSTEIN (counsel for the defendant Mueller): Dr. Leyers, you deposed several affidavits for the defense of Dr. Mueller. The first is Mueller Document 21 in Mueller book 3. It has Exhibit No. 2397.[1] It is dated 20 March 1948. Please look at this affidavit and corroborate the fact that it was deposed by you. At the same time I will ask you whether you have changes or additions to make. The other five affidavits have not actually been put in evidence. They are in Mueller book 4 which is to be put before the Court in the week to come. However, I have seen to it that the prosecution has copies and translations of these affidavits, and I should like now to offer these documents for identification. In case the affiant declares that these affidavits are his, this is an affidavit of 20 March 1948, which has document number Mueller 52–A, Defense Exhibit 3089. Then there is one of 29 April 1948, bearing document number Mueller 52–B, Defense Exhibit 3090. There is a third of 15 December 1947 with the document number Mueller 52–C, Defense Exhibit 3091, and another of 15 December 1947, document number Mueller 64, Defense Exhibit 3105,[2] and there is a final one of the same date with the document number Mueller 65, Defense Exhibit 3106.[3] Let me ask you whether in these cases also these are your affidavits and whether you have additions or changes?

WITNESS LEYERS: Yes, and these affidavits are in order.

DR. REITZENSTEIN: Then regarding these six affidavits likewise the witness Leyers is available for cross-examination.[4]

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CROSS-EXAMINATION

MR. RAGLAND: Witness, I would like to discuss with you first your affidavit which was executed on 15 December 1947, which is identified as Mueller Document 64. May I ask defense counsel to make available a copy of that affidavit in German to the witness? I believe he has a copy. As I understand it, Witness, you were present at a number of meetings in Hitler's headquarters dealing with the question of armament and armament production. Is that correct?

WITNESS LEYERS: Yes.

Q. And at a number of these meetings Erich Mueller was also present, is that correct?

A. Yes.

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[1] Ibid.

[2] Ibid.

[3] Ibid.

[4] Where affidavits were introduced in evidence, the above is a good example of their further handling before the Tribunal. The adverse party, here the prosecution, had requested cross-examination of the affiant. Thereupon the defense produced the affiant for examination, asked the affiant whether he affirmed his affidavits and had any changes to make thereto, and thereupon the affiant was made available to the adverse party for cross-examination.

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Q. Do you have any idea as to the number of such meetings which were attended by Erich Mueller?

A. Two, so far as I recall.

Q. What were the dates—I withdraw that. You are speaking of two meetings at which both you and Erich Mueller were present, is that correct?

A. Yes.

Q. And there may well have been other meetings at Hitler's headquarters which were attended by Erich Mueller and at which you were not present, is that correct?

A. That is possible.

* * * * * * *

Q. I would like next to refer to your affidavit of 15 December 1947, identified as Mueller Document 65, Defense Exhibit 3106.* Do you have a copy?

A. Yes.

Q. In the latter part of your affidavit you state that Dr. Mueller and you frankly expressed your aversion to certain plans, or to plans of certain representatives of the ministries, particularly Saur, Todt, and Speer. What were these plans to which your affidavit refers?

A. All plans which referred to the armament production which were drawn up by Saur or the experts in the Speer or Todt organizations were, in general, in contradistinction to previous practice, or rather the opposite of what had been the previous practice, and were the opposite of what the Army Ordnance Office had set up since the beginning of the rearmament. Every innovation, particularly during the war, first would bring about a certain uncertainty in the armaments production as a whole, and therefore the representatives of industry and private economy were agreed with the gentlemen in the Army Ordnance Office that new plans which would involve many changes in the existing methods of production would not be expedient. For that reason, Dr. Mueller and I, in official discussions, and also in the hours following those discussions, frequently and at length discussed the question of how we could best get along. The Todt Ministry and the Speer Ministry, that is the representatives of the Party, cannot be circumvented. They are there and have to be dealt with. How are we going to find a way out? And I can state that during all these years in which I worked with Dr. Mueller we offered consistent objection to the innovations that the Party—that is through the Armaments Ministry—wished to introduce.

Q. Well, before the Armaments Ministry ordered any new plan

* Reproduced above in this section.

or program that matter was first discussed with the representatives of industry, was it not?

A. Unfortunately, the system of Saur was such that he did not really discuss the matter with the actually designated representatives, but with subordinates and minor employees—the "little fellows". He had them give him material and data, and if they were not just "little fellows" they were dreamers or trouble makers, and the sort of people who just made life difficult for those who had to carry out the programs.

Q. Now, let's see. If you had a plan of the Armament Ministry involving the Krupp concern, that would be discussed with Erich Mueller among others, would it not?

A. In this case there was no plan that was discussed with Dr. Mueller in his capacity as a Krupp director. There must be a distinction drawn between Dr. Mueller as an engineer of the Krupp firm and Dr. Mueller as a representative of the armament office. Mueller in his behavior throughout the war proved that this distinction must be drawn and never once forgot it.

Q. You mean that at these meetings Dr. Mueller did not also express himself as an official of the Krupp firm?

A. May I ask that the question be repeated? (Question repeated.) The view that Mueller expressed to me were in large measure simply general production questions. A problem in Krupp production very rarely came up for discussion.

Q. You dealt with Erich Mueller over what period of time?

A. How long a period of time? Is that what you asked?

Q. Yes, what years?

A. 1940, 1941, 1942, 1943.

Q. I would like to refer at the moment to the affidavit contained in Mueller document book 3. The exhibit number of that is what? It is Mueller Document 21, Defense Exhibit 2397.* It appears on pages 1 and 2 of the Mueller book 3. You were familiar, were you not, Witness, with the desire of the Krupp firm to obtain a contract or order from the army for the manufacture of spare parts for automatic weapons?

A. I believe that I can make statements on this whole subject to this extent—that I personally am of the opinion that unfortunately the Krupp firm never approached me applying for an order, but, on the contrary, I was always obliged to go to the Krupp firm myself to get them to accept an order. I had the greatest difficulties in having orders accepted and completed.

Q. Witness, I believe it would be very helpful if you would answer my question rather than answering a question which I did not ask. My question is: Are you not familiar with the fact

* Reproduced above in this section.

that the Krupp firm was interested in obtaining a contract or order from the army for the manufacture of spare parts for automatic weapons? If you don't know, you can, of course, say you don't know.

A. The spare parts for automatic weapons were certainly a part of my competency, but I did not, however, concern myself personally with the orders for such spare parts. Consequently I do not know what specific order you are referring to in this case, since the automatic weapons as such did not particularly interest the Army Ordnance.

* * * * * * *

Q. You mean to testify that Erich Mueller at no time expressed to you the idea that automatic weapons were the weapons of the future and that the Krupp firm desired to obtain experience in that field?

A. No. I spoke with Dr. Mueller about automatic weapons, and according to my opinion there is a difference whether you are talking about spare parts, or the general question—"What will the future bring? Automatic weapons or the previous system and type of construction?" With Dr. Mueller, I discussed two types of antiaircraft gun, the 3.7 cm. One produced by Krupp and one produced by Rheinmetall.

Q. There was quite a bit of competition, was there not, between Krupp and Rheinmetall, as to who would get the order for the automatic weapons?

A. During the war I don't think it is proper to speak of competition between these two firms. The important thing during the war was to supply the army with the best possible antiaircraft gun, and—

Q. And both Krupp and Rheinmetall were interested in supplying the 3.7?

A. Yes.

Q. And Krupp was also interested in gaining experience in this field, since it was an important weapon, is that correct?

A. Yes.

Q. And in that connection the Krupp representatives had quite a number of meetings and conferences with the army representatives among others concerning establishment of a project at Auschwitz for the manufacture of automatic weapons. Is that correct?

A. Yes.

* * * * * * *

Q. Well, you do recall, do you not, discussions Krupp representatives had personally with you concerning establishment of

a factory for Krupp or by Krupp in the Sudetenland for the production of spare parts or automatic weapons?

A. The plant in the Sudetenland was just like in the Auschwitz problem, a question of exploiting capacity in order that a new factory might be built either in Sudetenland, in Markstaedt, or in Auschwitz. I can remember that the German industrial—

Q. Let me interrupt a moment. My specific question is, wasn't the matter discussed personally with you by Krupp representatives concerning the establishment of a plant in the Sudetenland for the manufacture of spare parts for automatic weapons?

A. What I said, exploiting capacity, I meant to say—

Q. Pardon me. Are you able to answer my question briefly? I asked—

A. When the problem really came to a head, namely the problem of putting up a factory in the Sudetenland, I was not present. Now, the question regarding what I mean when I said exploitation of capacity, that means the order to produce weapons can only be issued if there are plants available in order to fill these orders in the matter of producing arms.

Q. Perhaps I am at fault, Witness, but I don't believe that I am getting direct responses to the question which I ask. I seek your cooperation in that respect. I asked you specifically, were you not present at a meeting on or about 24 April 1942 at which Reiff, R-e-i-f-f, a gentleman named O-l-i-v-i-e-r, and a man named A-s-s-e-l were present; you recall a meeting on or about that date?

A. In the field of construction plans, which I associate with the name Olivier, the matter of all the new factories to be built were handled by him. All questions involving antiaircraft which were worked on by Colonel Schroeder, I was not personally involved in general, and usually it was only subsequently when the whole matter was summed up that I was informed of it.

Q. My specific question is, were you not present at a meeting with the gentlemen which I named?

A. What was the third—

Q. Let me finish the question. A meeting with gentlemen on or about 24 April 1942, at a meeting at which the matter of the establishment by Krupp of a factory in the Sudetenland was discussed?* I think that question would be possibly susceptible to a yes or no answer.

A. No.

Q. Do you not recall, or is it your testimony, that no such meeting was held?

A. I cannot recall that I took part in that discussion.

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* Prosecution counsel refers to the contents of the teletype sent by the defendant Mueller to Reiff on 25 April 1942, Document NIK-8485, Prosecution Exhibit 1219, reproduced above in section VIII B 1.

Q. Did you hear of any such discussion subsequently?

A. I cannot recall that I heard of this discussion subsequently, aside from the report on the overall construction plans.

Q. And that was an overall construction plan dealing with what plants or localities?

A. They concerned about five plants which were to be erected.

Q. Is your memory or recollection any better with respect to the meetings held dealing with the question of establishment and manufacture at the Bertha Works in Markstaedt? Do you recall anything concerning that matter?

A. Yes.

Q. You held a number of meetings about May 1942 with Erich Mueller, among others, concerning this matter, did you not?

A. Yes.

Q. You were much opposed, were you not, to the establishment or continuation of such a project?

A. Yes.

Q. Saur of the Armament Ministry also expressed the thought that the Markstaedt project of Krupp should be closed down under all circumstances, did he not?

A. Not with quite the emphasis as I did. Saur tried to juggle it with the various matters at hand, construction plans, raw materials, and so on, whereas I merely wanted to approach this Markstaedt project which had been ordered by Hitler only if all the prerequisites were there. I must answer your question that in the first period Saur did not favor the plan.

Q. Do you recall a meeting in July 1942, attended by various people, including yourself, Saur, Reiff of the Krupp firm, at which the question was discussed whether the Markstaedt project of Krupp should be closed down or not, do you recall such a meeting?

A. Whether that was the conference which you just mentioned, I cannot say. Regarding this Markstaedt project there were several discussions weekly, and again and again probably those gentlemen that you mentioned were present.

Q. Well, let me clear up this matter a bit. At these meetings or at least at a number of them, you expressed your opposition to such a project, did you not?

A. Yes.

Q. Saur expressed his opposition to such a project?

A. Yes.

Q. The general concensus of opinion at the conference was that the project should not be continued, that it should be closed down, was it not?

A. Yes.

Q. The Krupp representatives, however, urged strongly that the project should not be abandoned, is that not correct?

A. No, the Krupp firm simply expressed its view that the construction of the plant should be begun when the prerequisites were there for it, and these prerequisites were construction, raw material, electric power, etc.; they had to be fulfilled beforehand, and since there was a higher order to erect a plant in Markstaedt, at least the written preparatory work had to be done.

Q. Now, you speak about a Hitler order; as I recall you have no recollection of the discussion between Hitler and Erich Mueller in April 1942 at which Erich Mueller expressed the desire of the Krupp concern to start various construction projects, is that your testimony?

A. No, I can remember no instance in which Dr. Mueller on his own initiative expressed a wish on behalf of the Krupp firms. If I may describe to you in general how the discussion took place in such an incident, I shall be very glad to do so.

Q. Let me ask you first, Witness, as I understand it, it was your desire, the desire of Saur, the desire of representatives of the Speer Ministry, and of the Armament Ministry to close down the Markstaedt project, is that correct?

A. In the first period Saur even agreed with me because one Mr. Desch who had to work out the new construction projects recommended fervently to Saur that new construction should not be started in the field of armaments.

Q. You mean that you and Saur desired to take a course which was in opposition to a Hitler order?

A. Yes, that's right.

Q. You did not think that was a dangerous course at all?

A. No.

Q. And you expressed yourself freely in opposition to a Hitler order?

A. Even as early as the meeting with Hitler on 5 March 1942 I expressed this opposition. I said that the necessary prerequisites were no longer on hand, namely in 1942, for the construction of new plants because the plants available to me for armaments production were sufficient in order to carry out the Hitler orders. Therefore, the Hitler order could be carried out to meet the prescribed number of plants in the various armament fields, but his wish to have a new Krupp plant put up in Markstaedt was not really necessary.

Q. Let me understand this clearly. Is it your testimony that there was or was not a Hitler order requiring a project by Krupp at Markstaedt?

A. Yes.

Q. There was a Hitler order so requiring?

A. Yes.

Q. And you and Saur and others expressed yourselves in direct opposition to the Hitler order, is that correct?

A. I did so directly to Hitler himself. Saur did so only indirectly by not supporting this project and in not attempting to push it through with the sort of energy which was otherwise characteristic of him.

Q. You were not put in a concentration camp after you expressed such opposition, were you?

A. No.

Q. You continued on in your position in the Armament Ministry, did you not?

A. I continued in my position as armaments chief in the Army Ordnance Office.

Q. Saur was not dismissed, was he?

A. Saur didn't exactly enunciate his position. Saur merely treated the whole matter in a dilatory way for a few weeks until he went to another Fuehrer conference, and his only expression of attitude regarding the Markstaedt question was when on this next Hitler conference, Hitler again asked how far the Markstaedt program had progressed.

Q. Now, regardless of whether or not there was a Hitler order, the Krupp firm was very much in favor of the carrying-out of such a project, was it not?

A. No, in my opinion the Krupp firm did not lend support to this project at all. Look at the dates—The Fuehrer order on 5 March 1942, and then the date when I left the Army Ordnance Office in September of 1943. If by that time the Krupp firm isn't producing guns yet then that seems to me proof that the Krupp firm was not attacking this matter with the necessary energy.

Q. There are, Witness, in evidence in this case, minutes of a meeting at Berlin on 1 July 1942. These are minutes prepared by Reiff. I wish you would take time to look over these minutes briefly and see whether this refreshed your recollection at all concerning the meeting held on that date.

For the benefit of defense counsel, I don't have the exhibit number here at the moment. It is Document NIK–7445, Defense Exhibit 1111,* appearing in prosecution document book 41–A.

Having looked at these minutes, does that refresh your recollection at all concerning the meeting on 1 July 1942, do you recall such a meeting?

A. Yes.

Q. Do those minutes correctly set forth what happened at the meeting?

A. So far as Saur expressed his opinions, and so far as I am

* Reproduced above in section VIII B 1.

mentioned in the meeting, I am of the opinion that they correctly represent the situation at that time.

Q. You will notice in that exhibit, attached to the minutes is a memorandum of Reiff concerning what occurred after the meeting on 1 July. Is it not correct that on the following day Reiff discussed the Markstaedt project with you and urged upon you that that project be carried out?

A. It is possible that Reiff visited me in connection with this discussion and expressed the wish that a branch factory should be transferred from Essen to Silesia. This corresponded also to my views, that a production of gunbarrels that I asked for, as is mentioned repeatedly in these meetings, could very well be done in Silesia, and I would be very glad to see it there. Gun-barrel production could be done in Silesia well for various reasons. I supported this project.

Q. Let's get back for the moment to the Bertha Works project, did not Reiff, on the days following the meeting on 1 July 1942, see you, and did he not urge upon you at that time various reasons why the Markstaedt project of Krupp should be continued?

A. It is possible that Reiff visited me and that Reiff expressed the wish, and this wish corresponded to my wish, that in treating various armaments projects we shouldn't get caught short. In the armaments sector we had to fight against the wishes of the munitions branch and the tank branch, and we weapons or armaments people tried as much as possible to carry on, because in this case it wasn't a question of inadequate construction of a new workshop but it was a matter of constructing steel work halls on the one hand, and on the other hand, a construction of machine shop plants.

Now, Saur, on Desch's incentive, was trying to carry these plans out. Certainly, therefore, I listened sympathetically to Reiff's expression of his wish, and I carried this Markstaedt project further in my reports. I was not permeated with the notion that the Fuehrer order of 2 March 1942 could be carried out, and therefore I vacillated inside myself between the practical angle and the bureaucratic aspect, and continued to work on this project on paper.

Q. To go a little bit further though, the views which Reiff expressed on behalf of the Krupp firm, you stated that it was the desire of various people that no one should be cut short, and it was the desire of the Krupp firm, as expressed by Reiff, that this production at Markstaedt should be carried out?

A. The wish was expressed that the Markstaedt project should not be entirely abandoned. I cannot recall whether at that time Reiff was active in the armaments committee, whether on this

day in 1942 he was there as a member of the Krupp firm or whether he was there also as an official of the armaments committee.

Q. We tried to refresh your recollection on this score. Is it not clear that the discussions which he had with you concerning the matter were discussions which he had as a representative of the Krupp firm?

A. It isn't clear, but according to these minutes which you have put to me, I must assume that he came on behalf of the Krupp firm.

Q. And he advanced to you various reasons, did he not, why this production should be carried out, he enumerated various reasons?

A. Yes.

Q. And among other things he pointed to the availability of labor, stating that it would be possible for the SS to make available adequate concentration camp inmates?

A. I cannot imagine where he had the information that the SS would make these prisoners available, but if he did say this to me, then it can only be that he got the information from the man in charge of the recruitment of labor forces in the Armament Ministry.

Q. Well, wasn't the matter discussed by Reiff on behalf of the Krupp firm and by officials of the Army Ordnance Office concerning whether the army would aid Krupp in getting workers for the production of light field howitzers?

A. Certainly the expert in my department for the recruitment of labor gave Reiff his O.K. It was to my interest as chief of the weapons procurement department to make new construction available if I had a chance.

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REDIRECT EXAMINATION

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DR. REITZENSTEIN: You are speaking now of an armaments program. Who was responsible for setting up such programs?

WITNESS LEYERS: Actually an armaments program is drawn up by the general staff. The general staff passes on its requirements through military channels, and the military superiors—in this case the Chief of the Army Ordnance Office—works out the program in detail. But as long as we had an Armament Ministry the official channels from Hitler via Speer to Saur were frequently more rapid than the military channels via headquarters and the military offices.

Q. The project to build antiaircraft or to undertake antiaircraft manufacture, is that part of an armaments program?

A. Yes, antiaircraft, like any other form of gun, is armament and is merely part of the total armaments program.

Q. Now what was the case in this instance. Did this project for antiaircraft automatic weapons, was that instigated by the Ordnance Office as you just said, or did it proceed from Hitler to the Armament Ministry?

A. I can't tell you what was precisely the case in this instance. There was a certain competition as to who was going to come up with new ideas and who was going to get his ideas put through fastest, but in the case of the 3.7 antiaircraft guns it is particularly difficult because in the matter of automatic weapons production there were no experiences on hand, no experience had been gathered, and such questions would have interested me only in the second order because the problem of manufacturing automatic weapons is even more difficult than solving the construction difficulties. And I made my appearance in the field of manufacture, not of construction.

Q. You just spoke of manufacture. Can you find the connection between the manufacturing problem and the employment of concentration camp inmates, so far as you are able to tell in this particular case the origin of the idea of manufacturing 3.7 antiaircraft in Auschwitz?

A. The Army Ordnance Office was interested in setting up a new construction plant. It was indifferent to them where, if it was not near an endangered boundary of the country.

Where the workers were to come from was also a problem that did not concern the Army Ordnance Office because Sauckel was there to recruit manpower. We were only interested in seeing to it that the production plants received enough manpower.

Q. Who originated the idea of erecting production facilities in Auschwitz, and who put that idea to the Army Ordnance Office?

A. Probably this idea was suggested to the Army Ordnance Office in the conferences with Saur in which these problems were discussed.

MR. RAGLAND: I object to this line of inquiry. I believe that this witness has already testified beyond the scope of his knowledge.

DR. REITZENSTEIN: In the cross-examination you testified that Krupp had an interest in developing automatic weapons. Does this interest refer only to the development of such weapons or did it include the manufacture of them?

WITNESS LEYERS: In general an armaments plant must have an interest both in the development and the manufacture of such weapons. In this case the development of the automatic weapon was a necessary prerequisite which Krupp had to concern itself

with. But there is a great lapse of time between the conception of an idea of constructing automatic weapons and the actual manufacture of them. In peacetime it took about 5 years. In wartime that lapse of time can be measurably reduced.

Q. In the cross-examination you also said that a large number of projects which were to be undertaken were pending. Can you mention the number that you then mentioned?

A. In the cross-examination I mentioned about fifty. There were larger and smaller projects. For example, Kuensebeck or Markstaedt, or the enlarging of a machine tool factory, or building a new hall for the manufacture of gun carriages.

Q. Thank you. I think these examples suffice. I simply wanted to ask you, of these fifty projects how many was Krupp involved in?

A. An infinitesimally small number, I think perhaps no more than one or two. I can't tell you the number exactly. However, with some sort of documentation before me in which all these projects are listed for the various years, 1940, 1941, 1942, 1943—

Q. Can you tell what other German armaments firms participated in those and how their participation was compared with Krupps?

A. It is very hard to give a percentage in this. In addition to Krupp there were Rheinmetall and the former State Works. These three major armaments factories with their subsidiaries were the trunk, but as compared with the total machine industry they were a small percentage. The machine factory Wolf Bucker, for instance, or the Schichau firm, or Meng and Hamm in Hamburg, these are factories that manufacture light field howitzers. There were always at least three to six other firms involved.

Q. Was the fact that Krupp participated in any of these projects in any way remarkable?

A. No.

Q. You were also asked why, despite certain opposition offered by you and Saur, at least at the beginning, the Markstaedt project was carried out—or rather, you weren't asked about that, but the discussion of this subject in the cross-examination led to that statement. Let me ask you why, despite this opposition, the Markstaedt project was carried to a conclusion.

A. I can recall a conference under Speer's chairmanship, I can't tell you the date, however, in which the Minister—that is to say Speer—made me personally responsible for my wrong attitude that I had towards the whole subject, and said, "The Fuehrer order is the Fuehrer order, therefore Markstaedt will be carried out."

Q. You stated that you opposed Hitler and stated your opposition to Hitler personally. You were then asked if you were thrown

in a concentration camp because of that. I should like to discuss that question with you. In general, was there an opportunity of opposing Hitler?

A. This possibility only existed if one discussed matter in a more or less close circle, let us say among six or eight men. What then happened was that Hitler's immediate adviser was generally there, who was immediately in touch with him, and they never contradicted him. I recall a case. It was a case of heavy field howitzers or 10 centimeter cannons. Everyone agreed with Saur, even Hitler. I myself am an artillery man, and I saw that the whole question was being seen in a wrong light. Hitler didn't like any opposition and merely said, "Let's go on to the next point." Because of what I had done there I was, 3 hours later in the night, asked by Hitler, who had never previously known me, "Colonel please send your opinion to me in writing." Around 2:30 a.m. after I was already outside, Saur said "Leyers, Hitler ordered heavy field howitzers." And that's the way a Hitler decree worked.

Q. Then it was possible, if I understood you correctly, to express technical objections, as you did in this case, but do you know that if it was definitely decided upon that a Hitler plan was to be carried out it was still possible to oppose it?

A. I know of no instance of that sort because from month to month Saur's influence increased, and thus Saur was in a position to compile the documents for the monthly conferences so that the film could, so to speak, unroll before Hitler's eyes.

Q. In addition you were shown a document. It was minutes of a meeting drawn up by Reiff, a meeting of the ordnance committee. Let me show you this document again and ask you a few questions about it. If you look at the list of those participating in that conference can you tell what the jobs of the various people who attended are? Don't go through them one by one, but just what sort of a meeting was this?

A. This was a meeting in which the chief of the ordnance committee and the chief of the tank committee were present. This is at a time when Mueller was no longer chief of the committee.

Q. Yes, I see here the name of Tix, his successor. Do you know when Tix took over this job?

A. A few months before this meeting.

Q. And when was this meeting?

A. July 1942. Aside from these two chiefs of the committees, the appropriate military department chiefs were present.

Q. Please turn to the next page and read what follows Reiff's name, and explain it.

A. (Reading) Reiff, parenthesis, a dot 3 d. End parenthesis. I can't explain that.

Q. Don't you know what that abbreviation means?

A. No.

Q. Could it refer to the Sonderausschuss 3 d, that is the Special Committee 3 d?

A. Oh, yes, that's certainly what it is.

Q. What sort of organization was that?

A. That was a subdepartment of the ordnance committee. Well, I really can't tell you much about that, I haven't the table of organization before me. Three is a certain form of gun, and "d" is a certain form of caliber. That's all I know.

Q. Well that's enough for our purposes. In the course of this discussion and following it Reiff also had a discussion with you about the Markstaedt problem which was also discussed. In this talk did he refer to any instruction that he might have received from the firm, or do you consider it impossible that he was expressing actually his private opinion?

A. I can't answer that question because now there are three versions—a private view, or a view as a member of Krupp, or a view as a member of the special committee. Now I can't tell you any more than that.

Q. Are you in a position to say that this whole discussion and the Markstaedt problem led to a discussion inside the Army Ordnance Office?

A. I can't answer that question. I can only suppose that the committee wanted to have some degree of clarification on the question whether or not some action was to be undertaken. The committee was not interested greatly in how the managers or chiefs of the committees or official agencies were going to work out the problem on paper. Rather, the chiefs of the subdepartments wanted to have some practical conclusion reached each in his own sector.

DR. REITZENSTEIN: No further questions.

EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS WILHELM REIFF BEFORE COMMISSION II*

DIRECT EXAMINATION

DR. WEIZ (counsel for the defendant Eberhardt): Witness, will you please state your full name?

* Complete testimony is recorded in the mimeographed transcript, 8, 10 June 1948, pp. 11923–11965; 12099–12113.

WITNESS REIFF: Wilhelm Reiff.[1]

* * * * * * *

Q. Is it correct, Mr. Reiff, that first of all it was intended at that time [September 1943], before having to go to Wuestegiersdorf to take up the fuse production, to stop producing fuses by the Krupp firm altogether?[2]

A. Yes, that is correct. We intended to give up fuse production at that time.

Q. And why was it continued after all?

A. When we reported this to the Army Ordnance Office, the Army Ordnance Office was against this idea and demanded very clearly that we should take up the fuse production once more.

Q. You, yourself, that is to say the Krupp firm, were not interested in continuing this fuse production?

A. No, it was unimportant within our total production.

Q. Was it in the interest of the Krupp firm to get out of Essen with this production and take it to Wuestegiersdorf or some other place?

A. I don't understand your question. We left Essen as a result of a different development. The fuse production was bombed out in Essen.

Q. All right. I will rephrase my question, otherwise you can't answer it. Was it at all in the interest of the Krupp firm to take up this fuse production at some other place, or would the Krupp firm not have preferred to have continued the fuse production in Essen if it continued it at all?

A. Well, it is natural that we preferred to keep our fuse production in Essen in a situation which we could influence and where the fuse production was right near us.

* * * * * * *

Q. Is it correct, Mr. Reiff, that for a period of time you were detached for service at the Bertha Works at Markstaedt?

A. Yes.

Q. Were you during that time still a member of the KM [war materials] department?

A. No.

Q. It is correct then that your activity in the Bertha Works at Markstaedt had nothing directly to do with the jurisdiction of the KM department in Essen?

A. Yes, that is correct.

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[1] Reiff was a leading official of Krupp at the Bertha Works in Markstaedt, Silesia, and chief of the Special Heavy Weapons Committee, a branch committee of the Main Arms Committee. The Main Arms Committee was a semigovernmental agency under the general direction of the Speer Ministry.

[2] See Reiff's report concerning Auschwitz (NIK–11975, Pros. Ex. 1204), 7 September 1943, reproduced above in section VIII B 1.

* * * * * * *

Q. Mr. Reiff, do you recall the one negotiation in September 1943 when you and Mr. Eberhardt were told by the competent agencies in Berlin that you should not carry on the fuse production in Auschwitz but that another firm would take over this production which had not yet started?

A. Yes. I recall such a conference in Berlin.

Q. Do you remember any other negotiations about this subject of fuse production in Auschwitz, whether it was with the Army Ordnance Office or with one of the main committees of the Ministry of Armament and War Production, in which Mr. Eberhardt participated?

A. No.

Q. You are convinced then that this negotiation in September 1943 when it was possible to withdraw from this thing was the only one in which Eberhardt participated in this connection.

A. Yes, it was the only one in which Mr. Eberhardt participated concerning this particular subject.

Dr. WEITZ: I have no further questions to the witness.

* * * * * * *

DR. REITZENSTEIN (counsel for defendant Mueller): I have a few additional questions to put to you which refer to Prosecution Document 7445 in volume 41–A, which has been admitted as Exhibit 1111,[1] and to which the affidavit in Eberhardt document book 6 on page 49 refers. This is Eberhardt Document 369, Defense Exhibit 2431.[2] I don't know whether you are sufficiently familiar with the contents of the prosecution document that you can tell me, without looking at it again, about what conference you made this statement.

WITNESS REIFF: I would like to ask you to show me this. (The document was given to the witness.) Do I have to read the whole document?

Q. No, just enough to refresh your memory. I asked you what kind of conference this was at the time?

A. I recall that on the day when this coference took place I was in Berlin, and Mr. Tix, the head of the Main Committee Armaments, invited me to attend this conference. I recall that Mr. Tix considered it important that some people from his committee accompany him to this conference because questions referring to the entire armaments production were to be discussed there.

Q. One moment please, Mr. Reiff. For the continued examination it might be useful if you would interpolate at this point what your connection was with Mr. Tix.

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[1] Reproduced in part above in section VIII B 1.

[2] An affidavit by the witness Reiff, not reproduced herein.

A. I personally was a member of the Main Committee of which Mr. Tix was the head, and as such I participated in it, that is to say, as the director of a subcommittee. I see here that I also described the connections of the other gentlemen who were asked to attend the conference by Mr. Tix in their capacity as members of this committee.

Q. As far as the other gentlemen are concerned who took part in this conference, were these people who had any connections with the Krupp firm, outside of yourself?

A. No.

Q. I interrupted you, so please continue.

A. My attendance at that session was accidental, I would say, because I just happened to be in Berlin.

Q. I would like to clarify the following point with you. Glancing at your statement you will be able to see that the conversation at the conference discussed Markstaedt as the place where Krupp had to build up a new production site. Who directed the conversation to Markstaedt?

A. Mr. Saur.*

Q. What did Mr. Saur have to do at that conference since Mr. Tix was the one who issued the invitations?

A. Mr. Saur issued the invitations to the conference. Mr. Tix, in order to strengthen his position, had asked a few gentlemen to come along, and I was one of those.

Q. Was the Markstaedt problem the only point on the agenda?

A. No.

Q. What was generally discussed there?

A. That is mentioned in the first paragraph. The Reich Minister, etc., had been invited in order to decide how these steel workshops which had been evacuated were to be utilized and what kind of production was to be taken up there.

Q. Do you mean to say by that the general contents of the conference at that time served the expansion of the armaments and tank production?

A. Yes.

Q. I gather from the statement that Mr. Saur—I think it is on page 5, if you will take a look—said that the Markstaedt project was supposed to be abandoned. This is on page 5 of the transcript of the conference. Did you find this place?

A. Yes. Huelsebeck was the most urgent and then Katowice and Markstaedt was only in third place.

Q. But then further down it must say that they came to the conclusion that Markstaedt should be abandoned.

A. Yes, I think he said that Markstaedt should be abandoned.

---

* Extracts from Saur's testimony before the Tribunal are reproduced above in section VIII B 2.

Q. All right, that is sufficient on that point. Are you in a position to tell us here what your feelings were when it was said just like that, that the Markstaedt project was finished for Krupp?

A. I know that I was shocked at first because for me Markstaedt was above all the plant which was supposed to serve us as a reserve if large scale disturbances might be caused in the West because of air attacks. I myself was responsible as the director of a special committee for the maintenance of those programs which I had to supervise, and, of course, it was very important to me to know or not to know whether a plant would arise in the East on which one could fall back if the situation required it.

Q. Well, what you have just told us now are thoughts, in my opinion, of the, if I may say, Special Committee Chief Reiff.* How is it that Mr. Reiff, on page 6, emphasizes an interest of the Krupp firm in continuing this project? Isn't there a certain contradiction there?

A. First of all I knew that there was a so-called Fuehrer order which led to the Markstaedt plant. Such Fuehrer orders always prevailed, even if some agencies objected to it. I was convinced that sooner or later, because of the general condition as I knew it as a man active in armaments production and as a western German, that sooner or later Markstaedt would be continued and that we would run into very bad delays in its construction in the way of a temporary stoppage. The consequence was that a lot of unimportant work was done for Krupp and later we would have to catch up with the delay.

THE COMMISSIONER: In order to save time I would ask you kindly to stick to the question asked of you.

DR. REITZENSTEIN: After what the Commissioner has told you, may I ask you the following: the thoughts which you have just developed seem to be very personal thoughts of your own. Can you answer me very briefly whether you received any instructions from Krupp for this conference or whether you conducted these negotiations merely on the basis of your own considerations?

WITNESS REIFF: I couldn't receive any instructions from Krupp because during a coincidental stay in Berlin I was suddenly invited to this conference, and I had no opportunity, after receiving this notification during the conference, to obtain any information.

Q. Do I understand you correctly then that, completely on your own initiative, you carried on these negotiations and made corresponding representations to your partners without any special authority from the firm?

A. Yes, definitely.

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* Chief of Special Committee Heavy Weapons, Main Committee Arms.

DR. REITZENSTEIN: I have no further questions.

CROSS-EXAMINATION

* * * * * * *

MR. GOLDENBERG: Now, in your direct examination, and in an affidavit which you have given, you discussed a document concerning the Bertha Works (*NIK–7445, Pros. Ex. 1111*) * and stated that you attended this meeting in Berlin, or at least you were invited to this meeting as chief of the special committee or Sonderausschuss of the Ministry of Armament. What were your duties as chief of this special committee?

WITNESS REIFF: It was the duty of a director of a special committee to cooperate in carrying out the programs imposed by the Armament Ministry or the Army Ordnance Office.

Q. What was your function as chief of your special committee? Let us be a little more specific, please.

A. I was the head of a special committee for heavy artillery, and as such I had to participate in carrying out the programs which had been laid down and I had to see to it that the deliveries which were requested were met.

Q. Now, in that capacity, you dealt with these problems quite independent of your duties at the Krupp concern?

A. Yes.

Q. Did you ever consider the problems of the Krupp concern, the firm you were working for, when you were performing these duties?

A. If I understand you correctly, you want to ask whether there was a collision of interests between my duties as a director of a special committee and those of a department chief in the Krupp firm, and whether I preferred the interests of the Krupp firm. This is not the case.

Q I didn't ask you that, I just asked you if you considered the problems of the Krupp firm when you took care of certain problems. I didn't ask what you would do in case of conflicts. Or perhaps I will ask a few more questions. How many firms were there producing heavy artillery, in fairly large quantity?

A. Five or six firms.

Q. Which firm predominated in the field of heavy artillery?

A. I think the Bochumer Verein, as far as I remember.

Q. In the field of heavy artillery?

A. Yes, that's what you asked for.

Q. That was the largest producer of heavy artillery, the Bochumer Verein?

A. Yes, with its firm Hanomag.

---

* Reproduced above in section VIII B 1.

Q. How large a weapon was included within the competence of this committee? What constitutes heavy artillery, in other words.

A. From 15 cm. cannons upwards.

Q. And who was second to Bochumer Verein?

A. That's difficult to say.

Q. Where did Krupp fit?

A. In my opinion, Krupp was in third place.

* * * * * * *

Q. Well, in relation to what kind of problems did you confer with Mr. Saur?

A. I frequently came to the Ministry of Armament and there I saw Mr. Saur.

Q. Did you confer with Mr. Saur on problem of the KM Department?

A. As I said, on that occasion I do not remember it. Generally speaking, I frequently saw Mr. Saur, in particular for discussions which had been initiated by the Main Committee Armaments.

Q. Did you discuss problems of the KM Department with Mr. Saur?

A. It happened that Mr. Saur gave me information about quotas of armament deliveries.

Q. Did you discuss problems with Mr. Saur in your capacity as a member of the KM Department?

A. Certainly; I pointed out difficulties to Mr. Saur which arose if we wanted to fulfill his requests in as far as it was possible to raise such points to Mr. Saur.

* * * * * * *

Q. What did you discuss with Mr. Saur about the production program?

A. I received instructions from Mr. Saur. The discussions with Mr. Saur were conducted by one person alone.

Q. By whom?

A. By Mr. Saur.

Q. I am afraid—

COMMISSIONER FRIED: There seems to be a slight misunderstanding in the interpretation.

THE INTERPRETER: They were unilateral.

MR. GOLDENBERG: You mean Mr. Saur did all the talking?

WITNESS REIFF: During meetings with Mr. Saur, Mr. Saur talked most of the time.

Q. Did you talk to him?

A. I said before, when it was possible.

Q. Are you a friend of Mr. Saur's?

A. I am neither a friend nor an enemy of Mr. Saur's.

* * * * * * *

Q. Now you gave another affidavit concerning the setting-up of a fuse plant at Wuestegiersdorf (*Eberhardt Document 350, Def. Ex. 2413*). You stated that the Army Ordnance Office proposed that Krupp set up a plant at Lublin and that Krupp rejected this proposal. Why did Krupp reject this proposal?

A. As far as I remember, in the case of Lublin it was a concentration camp. We preferred not to work there if possible.

Q. Was that after your project in Auschwitz didn't go through?

A. Yes.

Q. And the reason you rejected it is because this was a concentration camp? Yet the same affidavit—

A. We didn't feel comfortable about it.

Q. Did you have any difficulties with the Army Ordnance Office because of your refusal?

A. We were requested at once to get the fuse plant going somewhere else?

* * * * * * *

Q. When you conferred with the Army Ordnance Office, about the selection of a site at Wuestegiersdorf, W-u-e-s-t-e-g-i-e-r-s-d-o-r-f, you knew that concentration camp labor was to be furnished for that project also; is that correct?

A. Not for the time being.

Q. Well, let me read to you from your affidavit: "But the Army Ordnance Office insisted that the manufacture be started and assigned the necessary workers, among them concentration camp inmates [Jewesses]." Was this assignment made after the original negotiations?

A. I think it must have been in the course of the negotiations.

Q. Was it—

A. We wanted to give up the matter but the Army Ordnance Office insisted on having it done and allocated those workers to us.

Q. Were they allocated before production started?

A. I think, or let me say, the first preparations had already begun to start production there.

Q. Will you answer my question: Were the concentration camp inmates assigned before production commenced?

A. About the same time as production started.

* * * * * * *

REDIRECT EXAMINATION

* * * * * * *

DR. KUEHN (counsel for the defendant Korschan): I have only one further question. You said, Witness, that you expressed your

misgivings to these two governmental agencies.[1] What answer did you receive?

WITNESS REIFF: I was told that the extraordinary, if not enormous, urgency of the program demanded that we employ concentration camp inmates in this case.

DR. KUEHN: Thank you, no further questions.

EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS JOHANNES SCHROEDER[2]

DIRECT EXAMINATION

* * * * * * *

DR. SCHILF (counsel for the defendant Janssen): Mr. Schroeder, you have heard that the purpose of my questions is to throw light on Dr. Janssen's activities after 1 April 1943, and you have already covered two large fields. I ask you now, as the war continued with its progressive destruction what was the main concern of your financial department? Did you have specific plans? And with what were you and Dr. Janssen—with whom, as you said, you were in close daily contact—primarily engaged?

WITNESS SCHROEDER: As I have already said, the great air attacks on Essen began at approximately the same time that Dr. Janssen joined us. Under the influence of this and of the war situation we expressed the opinion confidentially that Germany had in effect lost the war. It was important for Dr. Janssen to try to save at least something for the postwar period, and to see to it that then Krupp should be to a certain extent financially sound and continue to exist. To this end he wanted to keep the firm's assets as liquid as possible. We tried to achieve this in three ways. Firstly, we wished to realize outstanding amounts due to us for war damages as rapidly as possible. Secondly, we tried to collect payment of our claims on the Reich for goods delivered. Thirdly, we wanted to liquidate gradually our many Reich treasury bonds. To carry all this out we had to be particularly cautious, particularly after 20 July 1944, the date of the attempted assassination of Hitler. Because the Reich then demanded that industry make all liquid assets available to the Reich to finance the war. Since we could not correspond [by mail] on this subject, Dr. Janssen went to the various subsidiary firms and stated this policy of ours to them in person.

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[1] The Speer Ministry, in which Saur was chief of the technical division, and the Army Ordnance Office.

[2] Schroeder was the head of Krupp's finance department. His complete testimony is recorded in the mimeographed transcript, 27–29 April 1948, pp. 6106–6249.

Further extracts from Schroeder's testimony have been reproduced above in the materials on spoliation, section VII D 4.

Q. This financial policy for the future contravened the official governmental war policy, did it not?

A. Yes.

Q. Did Dr. Janssen explain to you in any greater detail how his plans were to be carried out in the postwar period? Did he tell you what plans he wanted to carry out on a practical level?

A. The aim of our policy was to keep the Krupp firm so healthy financially that after the war we could resume our peacetime production. Thus, he wanted to keep our property, our equipment, and our personnel, and thereby give our city of Essen some possibility to live in the future.

Q. Thank you. We are not interested in any further details. Since it seems important to me, and since I must assume that this matter is not familiar to the Tribunal, what is a Reich treasury bond?

A. The Reich treasury bonds* were, so to speak, certificates of indebtedness on the part of the Reich. They were loans to which we had to subscribe. Since the payments, we received from the Reich for deliveries had to be paid back to the Reich for the Reich treasury bonds, from an economic point of view the Reich still owed us the purchase price. Consequently we made an effort as early as 1943 and 1944 to get rid of these Reich treasury bonds.

* * * * * * *

EXAMINATION BY THE TRIBUNAL

* * * * * * *

JUDGE ANDERSON: Now, one other matter. You referred yesterday to the adoption of, I think in 1943, a fiscal policy or financial policy. I think you stated that it was brought about by the realization on the part of the members of the Vorstand that the war was lost, and it was necessary to adopt a new policy looking to the time of peace. I didn't quite understand just what that policy was.

WITNESS SCHROEDER: Well, at that time we considered that the war would be over within a measurable period, and we did not believe that we would win it. However, we assumed that after the end of the war the Krupp works in Essen would still be allowed to produce, but exclusively peacetime material, of course. However, our workshops which produced peacetime material were heavily damaged by air raids. If you will permit me, I shall name them. They were the railway engine shop; there was the shop for industrial and field railways; there was the excavator

* Although there was no law forcing German citizens and business enterprises to buy these bonds, "it was understood" that amounts proportionate to the fortune and income of individuals or the business volume of enterprises would be acquired and held by them. Increasing demands to finance the war, led the government to consider large scale sales of these bonds by previous buyers as sabotage of the war effort.

shop; the shop for producing railway material and others of a similar nature. At that time we did not think that the German Reich after the end of the war would still be in a position to pay our war damages. Therefore, Dr. Janssen said to me, "We shall have to make our financial position so strong that after the end of the war we shall be able to reconstruct those shops from our own funds to continue the production of peacetime material." Mr. Janssen was thinking of the great number of Krupp workers who had been with us for many years and for whom he wanted to save the place of work.

Q. Yes, I understand, but how was it decided that that would be accomplished?

A. We tried to accomplish it by piling up large bank reserves. For that purpose, as I said yesterday, we tried to realize our claims on the German Reich because we did not think that the Reich would be able to pay anything after the end of the war; therefore, we were more interested in having cash than having claims on the Reich. Apart from that, we sold our treasury bonds. In 1942 we had accumulated more than two hundred million in treasury bonds, and we started to sell those gradually, so that when the war was over we had only 68 million marks left in bonds. On purpose, we did not sell all of them because that would have been too noticeable, and it would have smacked too much of defeatism; therefore, we had to retain a certain amount of bonds.

Q. Well, the whole policy, as a matter of fact, smacked of defeatism, didn't it, and was directly contrary to the military regulations or decrees of the Reich?

A. Your Honor, I would like to tell you very frankly that anybody who was a Krupp employee would, of course, have done his duty until the very end. We were no traitors. On the other hand, however, we had a great responsibility toward all those numbers of workers whose livelihood depended on us, and nobody could expect us to bring that livelihood to ruin with open eyes by falling in with Hitler's mad policy.

Q. But the fact nevertheless remained that you, in adopting this financial policy in 1943, that you were doing so in violation of the governmental policy?

A. Yes, Your Honor, we definitely did that.

Q. And well, weren't you afraid of the concentration camp possibilities in adhering to that action?

A. The danger definitely existed, and therefore we discussed those matters only in a very small circle of people, and we never wrote any letters about it, or any notes. When we informed the subsidiaries of such a policy, Mr. Janssen would go in his own car, and he would neither write nor make telephone conversations

on that subject. Therefore, it was only possible that a very small circle could know of this policy.

Q. Well, now, Dr. Janssen, and the other members of the Vorstand who were responsible for this policy, were nevertheless fully cognizant of the fact they were running an extreme hazard so far as they were personally concerned, didn't they?

A. Your Honor, I only discussed the matter with Mr. Janssen, and we both realized the risk we were running; but what we had to do was to try and see that the government authorities did not notice anything of our plans.

Q. Well, was your willingness to take that risk dictated by financial considerations?

A. I was at that time prepared to take the risk.

JUDGE ANDERSON: All right, that is all. Thank you.

JUDGE DALY, Presiding: No further questions; the witness is excused.

C. Treatment of Foreign Laborers; Working and Living Conditions, Discipline, and Krupp's Relations with the Gestapo

1. CONTEMPORANEOUS DOCUMENTS

TRANSLATION OF DOCUMENT NI–3991
PROSECUTION EXHIBIT 897

MEMORANDUM FROM KRUPP'S MACHINE CONSTRUCTION 8 PLANT TO HUPE,* 14 MARCH 1942, DISCUSSING THE INCREASING WEAKNESS AND INABILITY TO WORK OF RUSSIAN WORKERS

Fried. Krupp
Aktiengesellschaft
Essen W./R.
[Handwritten] m/6995. Machine Construction 8 (Office and No. of the letter)

[Stamp]
14 March 1942
Tool Workshop

14 March 1942

To: Mr. Hupe through Mr. Koch
Subject: Employment of Russians
Case:

[Handwritten] DR. FRANKE
[Initial] FR. [Franke]
18 March
[Handwritten] MR. IHN
[Initial] H. [Hupe]

[Handwritten] Dr. Beusch
[Initial] J 18/March

We have ascertained during the last few days, that the food of the Russians working here is so pitifully bad that they are getting weaker and weaker every day.

Investigations have shown for example, that some Russians are not strong enough to tighten a turning part sufficiently for lack of physical strength. Conditions are exactly the same at all other places where Russians are employed.

If care is not taken to change the feeding arrangements sufficiently, so that a normal output may be demanded from these men, then their employment, and all the expense connected with

* Mr. Hupe was technical manager of Krupp's Cast Steel Works in Essen, a member of the Vorstand of the Bertha Works in Markstaedt in 1942 and 1943, and technical manager of the Krupp company established to manage the ELMAG plants in Mulhouse, Alsace, during the German occupation.

it, will have been in vain. Nor am I at all interested in receiving further Russians, if they are put on my roster as production workers but I cannot expect any production work of them.

I presume that the conditions are the same in all plants. It seems, therefore, appropriate for you to take the necessary steps, via the firm, in order to clear up this matter.

[Signature Illegible]

TRANSLATION OF DOCUMENT D-310
PROSECUTION EXHIBIT 898

LETTER FROM KRUPP FOREMAN GROLLIUS TO KRUPP FOREMAN KOELSCH, 18 MARCH 1942, COMPLAINING ABOUT THE FOOD FOR RUSSIAN WORKERS AND THEIR HEALTH CONDITIONS

Enclosure to letter from
Motor Vehicles Department of 20 March 1942*

Motor Vehicle Department
18 March 1942

Copy

Foreman Koelsch,

I got the food this evening after Mr. Balz telephoned, but I had quite a struggle with the people responsible in the camp before I got anything at all. They always told me that the people had already received the day's rations and there wasn't any more. What the gentlemen understand under a day's ration is a complete puzzle to me. The food as a whole was a puzzle too, because they ladled me out the thinnest of already watery soup. It was literally water with a handful of turnips, and it looked as if it were dish water.

Please tell Mr. Balz again definitely, so that the matter is finally cleared up, that we cannot continue having people perish here at work. The people have to work for us here. Good, but care must be taken to see that they get at least the bare necessities. I have seen a few figures in the camp, and a cold shudder actually ran up and down my spine. I met one there, and he looked as though he'd got barber's rash. It is not to be wondered at when they get no soap, and filth cannot be removed by water alone. If this continues we shall all be contaminated. It is a pity when just at the moment the motto is "increased production." Something must be done to keep the people capable of production, otherwise we shall experience a great disaster in

* The letter transmitting this letter to the defendant Ihn is reproduced immediately below (D-318, Pros. Ex. 899).

this respect, not only in production but also in the matter of health, and what that means especially today, we all know.

It is my firm conviction that if the people are more or less satisfied, the production which is continually being asked for will be attained, because after all, it is for us and our dearly beloved Germany.

Heil Hitler!

[Signed] AUGUST GROLLIUS

17 January 1942

P.S. Please tell Karl Schaefer to put a ladle out for me in the evenings so that I can better distribute the food to the people.

TRANSLATION OF DOCUMENT D-318
PROSECUTION EXHIBIT 899

KRUPP MEMORANDUM FROM DINKELACKER TO DEFENDANT IHN, 20 MARCH 1942, CONCERNING FOOD CONDITIONS AND ENCLOSING LETTER OF GROLLIUS

Fried. Krupp AG.
Essen
Motor Vehicle Plant (Armored Car Shop)
To: Mr. Ihn, Main Administration Department
[Handwritten] Hans D. Beusch 23 March

20 March 1942
Di/F

I am enclosing herewith a copy of a letter from our foreman August Grollius, who as SS Scharfuehrer supervises the Russian civilians working on the night shift.

The Deputy Works Manager, Mr. Mustin, who also employs a number of such Russian workers and who is quite satisfied with their performance, went to the camp in Kraemerplatz on my inducement and had a talk about the food with Mr. Weihberg, the camp commandant. Mr. Hassel from the works police who was present at the time, butted in and declared that one should not believe what the people said. Also that one was dealing with Bolshevists and they ought to have beatings substituted for food.

I am free from any false sentimentality. This is a matter concerning people who have been given to me to work, or anyway to the armored vehicle shop, and from whom I demand work. Already they have proved today that they can and will work.

Every creature from whom I demand work must be fed, and I have ascertained on my many journeys to various factories, as president of the special committee for motor tractors, that the Russians are good workers, providing they get enough to eat.

[Signed] DINKELACKER

1 Enclosure

[Handwritten]

Mr. Balz informs me that the food for 9 Russian civilians on night shift on 19–20 March was forgotten. Foreman Grollius therefore refused to bring these people to work. Only then did they receive their food.

[Initialed] D

TRANSLATION OF VON BUELOW DOCUMENT 119 DEFENSE EXHIBIT 1580

EXTRACT FROM A REPORT BY MINISTER SPEER ON CONFERENCES WITH HITLER, 21 AND 22 MARCH 1942, NOTING THAT HITLER STATED RUSSIAN WORKERS MUST BE FED ADEQUATELY AND NO LONGER TREATED LIKE PRISONERS OF WAR

Excerpt from the document book for the defendant Albert Speer, presented by attorney at law Dr. Hans Flaechsner in the IMT Trial.

Speer Exhibit No. 4

Fuehrer Record of 21–22 March 1942

Point 20.–The Fuehrer declared unequivocally and at great length, that he did not agree that the Russians should be fed so poorly. The Russians must receive an absolutely sufficient amount of food and Sauckel was to see to it that Backe would now make sure that such feeding measures were taken.

Point 21.–The Fuehrer is surprised that the civilian Russians are kept behind barbed wire fences like prisoners of war.

I told him that this was based on an order issued by him. The Fuehrer knows nothing of such an order. I ask that the files on this be given me for the next Fuehrer portfolio, and at the same time that Sauckel sees to it that the civilian Russians are no longer treated like prisoners of war.

Signed: SPEER

PARTIAL TRANSLATION OF VON BUELOW DOCUMENT 120 DEFENSE EXHIBIT 1573

GESTAPO LETTER, 25 APRIL 1942, TRANSMITTING AN ORDER SIGNED BY HEYDRICH ENTITLED "TREATMENT OF WORKERS FROM THE OLD [PRE-1939] RUSSIAN TERRITORY," DATED 9 APRIL 1942

Duesseldorf, 25 April 1942

Secret State Police, Gestapo Regional Headquarters,
Duesseldorf
II E R 799/42

Subject: Treatment of workers from the Old [pre-1939] Russian territory

Reference: Order of 9 March 1942 [sic]—II E R—799/42

Enclosure: One copy

Enclosed I am forwarding a copy of a supplementary decree of the Reich Leader SS and Chief of the German Police, for your attention and information. I would ask you, however, to see to it that the elimination of the barbed wire does not further increase the chances for escaping.

The issuing of the supplementary decree does not mean that it is necessary to change at this stage the leaflets and service instructions to the guards, which were sent with the abovementioned order.

It is left to you to decide, in every case, whether the prohibition to leave the camp should be relaxed. The plants to which workers from the pre-1939 Russian territories have been allocated, must be informed of the changes in the original provisions. If new camps for Russians are erected, the procedure must be the same.

Signed: DR. ALBATH
Certified:
[Signature illegible]
Administrative Office Employee

[Handwritten] Krefeld

To Branch Offices and the Offices of the Border Police of the District, also Department III in the building

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Copy

The Reich Leader SS and Chief of the German Police
S—IV D—293/42 (foreign workers)

Berlin, 9 April 1942

Treatment of the workers from the pre-1939 Russian territory

Supplement to Section A of the General Regulations concerning the Recruitment and Employment of Prisoners from the East, of 20 February 1942—S—IV D—208/42 (foreign workers).

The experience gained from the employment of workers from the pre-1939 Russian territory (Section A of the regulations of 20 February 1942) makes it possible to handle the recruiting propaganda more efficiently, to improve the feeding of these workers, and to examine anew the question of their wages. In view of these facts, and after taking into consideration the reports from the Security Police describing their experiences so far, I have deemed it advisable, in agreement with the Plenipotentiary General for the Allocation of Labor, Gauleiter Sauckel, to change and supplement as follows certain provisions of Section A of the above-mentioned regulations of 20 February 1942, together with the measures indicated above:

To A III. *Mobilization of Labor*

In view of the plans which have been drawn up in the meantime for the total mobilization of labor, it would appear inadvisable *strictly* to segregate the workers from the pre-1939 Russian territory from the German civilian population, from foreign civilian workers, and from all other prisoners of war, as otherwise the possibilities for using these workers would be too restricted.

Bearing in mind the principle that these workers should be segregated *as far as possible,* the following will now apply:

1. The principle of using them in self-contained detachments can be modified to the extent that the detachments may be subdivided into smaller groups in the plants if, for instance in the case of skilled workers, it is important to put them on work which can only be carried out by skilled workers.

In such cases it cannot be avoided that workers from the pre-1939 Soviet territories work alongside German and also foreign workers.

For a certain *period of transition* it may not be possible to avoid workers from the pre-1939 Soviet territories working also with prisoners of war in the same plant. But this must not happen, except in cases in which this is absolutely necessary. When planning the allocation, steps must be taken to see, that this undesirable state of affairs should cease as soon as possible. Wherever it is possible to employ workers from the pre-1939 Soviet territories in separated groups in special departments of the plant, then this must be done as a matter of course. Every effort is now being made to set up so-called "Russian plants."

2. There are no objections to employing families with children over 15 years of age who are capable of work. This applies especially to work in agriculture. It is not necessary to separate the families. Women with children who are not able to work, and pregnant women, are a burden on the mobilization of labor, and

must consequently not be brought into the Reich, or if already there, must be deported.

To A IV. *Living Quarters*

With regard to separate living quarters, the regulations already issued remain in force, but with the following modifications:

1. The fencing-in of the camps must *not* be done with barbed wire. Barbed wire already there must be removed.

2. If in smaller agricultural establishments, in which individual allocation is permitted, there are insurmountable difficulties in the way of collective billets for instance, in cases where the villages are spread over a large area—male workers from the pre-1939 Soviet territories may be given individual lodgings in quarters which can be securely locked and well supervised, *if* there is a male German worker on the spot who can be trusted to keep a check.

3. Families (see above under A III, Section 2) must not necessarily be separated in the living quarters either. In closed camps they should be given separate quarters, if this is feasible. If they are allocated to smaller agricultural establishments, they may be given accommodations under the conditions provided by A IV Section 2.

4. The regulation that the workers from the pre-1939 Soviet territories must not leave their living quarters, except to perform their work, still applies. The absolute ban on going out will be relaxed to the extent that *trustworthy* workers—as a kind of reward—may be permitted to leave their living quarters in *self-contained* groups under adequate *German supervision.* The supervision must be carried out by the guards or by the personnel of the plant. In the case of abuses, escapes, and other similar delicts, permission to go out will be canceled.

Since the workers from the pre-1939 Soviet territories are permitted to leave their living quarters only to perform their work, and as this is noted in their identification cards, steps must be taken to see that the German escorts can identify themselves, and, should the occasion arise, be able to show the permit issued by the plant for taking the workers out.

For the rest, the workers from the pre-1939 Soviet terrritories must spend the whole of their free time in their living quarters, as they have done so far.

To A V. 1 *Guarding of living quarters*

1. If in individual cases the prescribed guards cannot be provided owing to lack of personnel, or if, in the case of small camps, the cost of keeping guard would, in the opinion of the Gestapo Regional Headquarters, mean an undue burden on the plant

leader, then under the supervision of the Gestapo Regional Headquarters, or of the police office appointed by it, the plants themselves may be allowed to exercise this supervision, possibly by the use of plant guards.

2. Insofar as individual quarters are permitted under the above-named provisions (see A IV, section 2), there is no need for the employment of special guards. The German male workers who are present on the site must keep a constant watch.

For the rest, the provisions of the general regulations concerning the recruitment and the employment of workers from the East of 20 February 1942, S—IV D—208/42 (foreign workers), remain in force.

As Deputy
Signed: HEYDRICH

TRANSLATION OF DOCUMENT NIK-12165
PROSECUTION EXHIBIT 966

CIRCULAR FROM REICH GROUP INDUSTRY TO CHAMBERS OF COMMERCE AND ECONOMIC GROUPS, 4 JUNE 1942, CONCERNING HIMMLER'S "NEW INSTRUCTIONS FOR THE TREATMENT OF WORKERS FROM THE OLD [PRE-1939] SOVIET TERRITORY"

Reich Group Industry*

[Stamp] Private Secretariat
Received: 7 June 1942

Telephone: Local Calls: 21 83 21
Long Distance: 21 46 83
Telegrams: Reich Industry

Berlin, W 35, 4 June 1942
Tirpitzufer 56/58
137

Diary No. X 2044/K I 7a
Dr. Sz/Schi
(Opp. 352)

To the Industry Departments of the Chambers of Commerce and Economic Groups for *distribution of information*

Subject: Treatment of workers from the old [pre-1939] Soviet territory

The Reich Leader SS and Chief of German Police, in agreement with the Plenipotentiary General for the Allocation of Labor, has

* The Reich Group Industry was organized on the basis of the law for the preparation of an organization of National Economy (Gesetz zur Vorbereitung des organischen Aufbaues der Wirtschaft) of 27 February 1934, and activated by a decree of the Minister of Economics of 12 January 1935. Although a private organization representing all industrial enterprises, the Reich Group Industry functioned as semigovernmental agency under the jurisdiction of the Reich Minister for Economics.

903432—51——57

given new instructions for the treatment of workers from the old Soviet territory, from which we would point out the following regulations which are important for industrial plants. We should like particularly to draw attention to the fact that the State Police have been furnished with additional instructions, and that close contact with them is, therefore, required.

I. Utilization of labor

Plans drafted in the meantime for the utilization of the whole of labor make a strict separation of workers from the old Soviet territory from the German civilian population, foreign civilian workers and all prisoners of war, appear inadvisable, because it would considerably limit the possibility of using these laborers.

In adhering to the principles of separation as far as possible, the following will apply:

It is not contrary to the principles for the employment of detachments, for such detachments to be divided into smaller groups inside the plants, when it is important—as in the case of skilled workers—to put the workers into places of work which can be filled by them only. In such cases it is inevitable that workers from the old Soviet territory will be put among German, or even foreign workers.

During a transition period it will be inevitable that workers from the old Soviet territory work in the same plant with prisoners of war. This, however, should only be done in cases of absolute necessity; also, from the outset, when plans are drafted for the allocation of labor, a remedy for this undesirable state of affairs must be a primary consideration.

Wherever it is possible to use workers from the old Soviet territory in secluded and separate plant sections, this is of course to be done. Furthermore, greater endeavors will be made to establish so-called "Russian plants."

II. Billeting

As regards separate billets, the old regulations apply, but with the following alterations:

1. Camps will not be fenced in with barbed wire. Where barbed wire had been used it will be removed.

2. Workers from the old Soviet territory may only leave their billets in order to go to work. The complete prohibition of leave of absence from billets will however be relaxed, in this way—reliable workers, by way of a reward, so to speak, may be allowed to leave their billets in closed groups with sufficient German supervision. The supervision will be provided by the guard units or the plant personnel. In cases of abuse of privilege, escapes, etc., the workers' privilege to leave their billets will be canceled.

As workers from the old Soviet territory may leave their billets only in order to go to work, and this is mentioned in their identification papers, German supervisory personnel will have to make sure that they are able to identify themselves, and to prove, if necessary, their authority to take out these laborers, by means of a certificate made out by the plant.

Otherwise workers from the old Soviet territory will spend their entire off-duty time in their billets as before.

III. Guarding of billets

If, in any given case, the required guards cannot be supplied owing to lack of personnel, or if, for small camps, the expenditure for the guards would constitute too heavy a burden for the plant management, according to the findings of the competent State Police Regional Headquarters, the plant itself may guarantee a sufficient number of guards—possibly in the form of Works Police—under the supervision of the State Police Regional Headquarters, or a police office designated by them.

Heil Hitler!
The management
Reich Group Industry
By order:
[Signed] Schwarz
[Signature Illegible]

By order

TRANSLATION OF DOCUMENT NIK–15436
PROSECUTION EXHIBIT 1545

MEMORANDUM OF KRUPP'S HOUSING ADMINISTRATION, 9 JULY 1942, WITH SUBSEQUENT INTEROFFICE NOTES, CONCERNING CONDITIONS AT CAMP SPENLÉSTRASSE

W. V. (Housing Administration)
Diary No. 2235
Housing Administration, 9 July 1942

1. To be written L/V
To Mr. Frisch [Handwritten] action taken 9 July 1942 V.
Building Office [Illegible initials]
Spenléstrasse Camp*

The miserable conditions at camp Spenléstrasse have reached a stage which could hardly be surpassed and it also has given cause for complaints from the most varied circles. The cause for this condition is, above all, the lack of adequate toilet and washing facilities. The few toilets and wash rooms so far completed are not sufficient to permit segregating the various nationalities

* One of the eastern worker's camps at Essen.

and, above all, men and women. Because they are being used almost all the time it is not possible to arrange for proper cleaning.

We must, therefore, now ask you emphatically to put an end to this condition with all possible speed through immediate completion of all work in the two large lavatory and toilet huts, also by building an additional small hut with toilets for which we have already asked you previously.

2. Copy of the above letter to Mr. Kolb, with the request to report to us on the state of affairs by telephone, on Monday 13 July.
3. To be submitted again on 13 July 1942.

[Handwritten] action taken on 9 July 1942 V.

Gusstahlfabrik, 9 July 1942
[Initialed] L

[Handwritten] Lavatory huts are not yet finished.
To be submitted again on 24 July (noted)
On 24 July not yet finished.
To be submitted again on 5 August. (noted)
Now finished for the most part.
To be submitted again on 1 September (noted)

W. V. [Housing Administration] 2463, 29 July 1942

[Page 2 of document] Housing Administration
L/V

Building Office, Attention of Mr. Lipsius
Camp Spenléstrasse

The dining hall hut 2 at Spenléstrasse which is being used for sleeping quarters must be subdivided at the earliest possible moment, approximately in the manner used in the other huts which are used for housing. We shall, therefore, appreciate receiving at an early date a plan for the partitioning of this hut and your taking steps to have the partitions put up at the earliest possible moment.

2. To Mr. Duerr, for his information.
3. Housing Administration on 8 August 1942 (noted)

Gusstahlfabrik, 29 July 1942

To be passed on to Mr. Duerr for further action in the matter.

PARTIAL TRANSLATION OF DOCUMENT D-144
PROSECUTION EXHIBIT 905

MEMORANDUM OF DEFENDANT VON BUELOW, 27 OCTOBER 1942, CONCERNING A DISCUSSION ON THE MANAGEMENT OF THE CAMPS FOR EASTERN WORKERS

Plant Police, 27 October 1942
[Initialed] B

Memorandum

Subject: Management of camps for eastern workers

This morning a discussion took place in the plant police office, at which the following were present: Messrs. von Buelow, Wilshaus, Hassel, Weihberg, also the Camp Leaders Botz, Schneider, Fuehrer, Theis, Rath and Schlupp.

Camp Leader Hoffman, of Grieperstrasse camp, had also been invited but did not appear.

The following points were discussed:

1. *Falling in for work*—All the camp leaders complained that they had the greatest difficulty in bringing the male and female eastern workers to work in the morning. In the darkness—the roll call for the first shift takes place at 0430 hours—some of the workers sneak away, hide themselves in the latrines, cupboards, or under the beds, or lie down in beds in other barracks, etc. The camp leaders are of the unanimous opinion that the only possible way to combat this is to treat the shirkers harshly and bring them to work by force.

Moreover, as has already been ordered in the circular dated 23 October 1942 H. V. No. A 6, efforts must be made by means of better pay, and above all by piece rates, premiums, etc., to induce the eastern workers to go to work voluntarily. Furthermore it can be expected that if the camps are made more comfortable and the food is improved, the eastern workers will automatically become more willing to work. On the other hand, the beginning of winter, with its cold weather, will, on account of cold infections, poor clothing and footwear, increase unwillingness to go to work.

2. *Morale of eastern workers*—This is becoming visibly worse. The camp leaders are unanimously in favor of separating the good from the bad elements as soon as possible. They describe about one-third as good, one-third as indifferent and one-third as inveterate shirkers, criminals, and politically unsound persons. As a first measure, the wholly bad elements should be put into a special camp—punishment camp. Later on, the various camps

will have to be divided into two parts, one for the good and one for the bad workers. That could of course be done without much difficulty. The good elements would be dealt with preferentially in matters of housing, general treatment and food.

3. *Punishment*—The Gestapo informed us recently that to begin with they have adopted the method of inflicting severe corporal punishment on all workers trying to escape, and other bad elements.

I have given express instruction to all camp leaders neither to order nor to tolerate in future the infliction of corporal punishment. The camp leaders have taken note of this and have agreed to conduct themselves accordingly. They have, however, expressed their grave doubts as to whether, in view of these limitations, discipline and production efficiency can always be maintained. They believe that the news of the abolishment of corporal punishment in the camps would spread very quickly, and would lead to insubordination.

Instantaneous measures of corporal treatment applied to persons caught in the act are not affected by the order to discontinue corporal punishment, especially in cases where the steadily increasing thefts from kitchens and breaches of discipline towards the guards are to be dealt with. Such cases are to be entered in detail in the camp book which is shown to Mr. Wilshaus at regular intervals. Under no circumstances, however, are women to be handled roughly.

Furthermore, the plant police will, in future, be at liberty to punish slackers and insubordinate workers by depriving them of their meals, in particular female workers who are caught stealing. The method of carrying out the punishment will be that the plant police give instructions to the housing administration not to issue any midday meal to the eastern workers concerned. The plant police are free to assign the portions thus withheld from the bad eastern workers as additional rations to the willing eastern workers.

The plant police are furthermore to be allowed to punish malingerers and slackers by depriving them of meals. In this respect the plant police are already cooperating with the camp doctors, who report these slackers and malingerers to the camp leaders.

4. *Self-administration of the eastern workers*—Such an administration is being operated even now in all camps in such a way that the eastern workers have a camp senior with barrack seniors under him. The latter have divided their barracks among room seniors.

5. *Material for cleaning the barracks*—There is still a lack

of every kind of cleaning materials, such as brooms, buckets, dustpans etc., which are necessary for keeping the barracks tidy.

6. *Correspondence of eastern workers with their families*—The 10,000 reply post cards ordered by the labor allocation for the eastern workers have so far not been supplied. Dr. Lehmann is to be asked whether these cards could possibly be manufactured by the Grapha.

7. *Cultural welfare for eastern workers*—Hitherto this has only been carried out in the Spenléstrasse and Kraemerplatz camps. In addition, a "sports program" has already taken place in the Kraemerplatz camp. These arrangements have called forth the greatest interest from the camp inmates, who now approach the camp leaders continually with requests for these events to be repeated. For this reason it is highly desirable that recreation rooms should be set up in the camps as soon as possible, in which such events could be held during the winter months as well. According to camp leader Botz's report, the housing administration is supposed to be planning to convert the mess in the Spenléstrasse camp into living quarters. Half of the combined recreation room and mess in the Dechenschule camp is also going to be used as sleeping quarters. I request the other offices concerned to examine whether this could not be avoided.

8. *Permission for eastern workers to leave camp*—According to circulars by the firm, the individual plants have been ordered to arrange conducted walks for the male and female eastern workers accommodated in the camps. In order to educate the eastern workers to self-administration, the excursions have lately been led by eastern workers of both sexes, specially selected for the purpose. Because of complaints from the population and inconveniences which have arisen, the Gestapo have now forbidden this method and only permit excursions with German employees as guides. Therefore the arranging of conducted walks has become the plants' own responsibility again. The plants will have to be instructed by the respective camp leaders that henceforth the excursions are to be conducted in the manner provided for in the circulars, and that it is of the utmost importance in maintaining the Russians' zest for work to afford them this privilege.

9. *Cooperation between Housing Administration/Cooperative Stores* [*Konsum*]*/Plant Police*—Since the camp leaders and the plant police are the offices which have to maintain immediate relations with the eastern workers, the camp leaders urgently request that measures taken by other offices, which are likely to affect the eastern workers noticeably (e.g., questions of food and quarters), shall be discussed with the camp administration

beforehand, so that the latter can bring its influence to bear in order to pacify and inform the workers in good time. Thus in one case the male and female juvenile eastern workers under 18, accommodated in the Spenléstrasse camp, received only 200 grams of bread instead of 300 grams per day, because the sense of an announcement issued by the official in charge at the cooperative stores [Konsum Anstalt], Mr. Sundermann, had been distorted by a printing error. The plant police had not been previously informed and could restore quietness only with the greatest difficulty. In another case, Mr. Kuhlmann, had given instructions, without having consulted the plant police beforehand, for the transfer of a number of female eastern workers from the Fiedler Hall to the Kaninenbergstrasse camp, during the hours of darkness. Owing to the condition of the female eastern workers and to an air raid warning, it proved impossible to carry out the transfer, and unrest and delay in the issuing of the meal were the result.

In such cases, as these, consultations *in advance* with the plant police are imperative.

Mr. Fuehrer, foreman of the plant police at Kraemerplatz camp, was ordered to inform Mr. Hoffmann, camp leader of Grieperstrasse camp, correspondingly, and to request his attendance at the next discussion on Tuesday, 10 November 1942.

Copy to Mr. Ihn via Dr. Lehmann, *Dr. Beusch.*

When could I discuss with you points concerning housing administration and allocation of labor?

[Stamp] signed: VON BUELOW*

Two copies to Mr. Wilshaus

* The defendant von Buelow was appointed chief counterintelligence agent (Hauptabwehrbeauftragter) for the Krupp concern by a written memo, signed by Goerens and the defendant Loeser for the Krupp Direktorium on 1 November 1939 (NIK–10498, Pros. Ex. 847, reproduced immediately below). The same memorandum declares that von Buelow was given direction over the Krupp plant police. In an affidavit reproduced later in this section (NIK–12613, Pros. Ex. 865) the defendant von Buelow discusses his appointment first as military chief counterintelligence agent for Krupp and his later appointment by the Gestapo as political chief counterintelligence agent.

TRANSLATION OF DOCUMENT NIK-10498
PROSECUTION EXHIBIT 847

MEMORANDUM OF KRUPP DIRECTORIUM APPOINTING DEFENDANT VON BUELOW AS CHIEF COUNTERINTELLIGENCE AGENT AND GIVING HIM AUTHORITY TO DIRECT KRUPP'S PLANT POLICE

Copy

Cast Steel Works, Essen
1 November 1939

As successor to the late Mr. Stumm, Mr. von Buelow is appointed chief counterintelligence agent. In this capacity he is immediately subordinate to the Direktorium and can direct the plant police.

The arranged incorporation of the plant police into the administrative department (Dr. Beusch) remains unchanged. In this respect Mr. von Buelow, as the successor to Mr. Stumm, will take over the plant police within the administrative department (Dr. Beusch).

Fried. Krupp
Aktiengesellschaft
The Direktorium
Signed: GOERENS Signed: LOESER

1 copy each to—
Mr. Ihn
Mr. Beusch
Mr. von Buelow
Mr. Krupp von Bohlen und Halbach
and Mr. Alfried von Bohlen

TRANSLATION OF VON BUELOW DOCUMENT 290
DEFENSE EXHIBIT 1572

OFFICIAL SERVICE INSTRUCTIONS OF THE POLICE FOR THE GUARDS OF CAMPS CONTAINING RUSSIAN CIVILIAN WORKERS, UNDATED

Service Instructions for the Guards

A. *General*

1. The civilian workers from the Russian occupied territories employed in the Reich territory (hereafter described as Russian workers) must be strictly segregated from the German population, the other foreign civilian workers, and all prisoners of war. They will be accommodated in closed camps, which they must leave only to go to work, *under escort* of the guard.

2. The Russian workers must wear a badge on the right side of their breast, on the outergarment (for work where no coat is worn, this must also be worn on the shirt). The badge must be visible and firmly attached to the garment. The badge will consist of upright rectangle with a blue and white border, with the lettering "EAST" in a white on a blue base.

3. The Russian workers are forbidden to have any intercourse, other than that necessitated by the work, with—

(*a*) Persons of German nationality, in particular with those of the opposite sex. Sexual intercourse is especially forbidden under penalty of death.

(*b*) Other foreign civilian workers or prisoners of war.

B. *Duties*

4. (*a*) The chief of the guard is responsible for regulating the duties of the guard in the camp itself, on the way to work and at the place of work. One man alone must never be assigned to guard duty. The chief is responsible for the carrying-out of the orders issued, the safety of the camp, and the maintenance of order and discipline in the camp and at the place of work. He must supervise the guards on duty, and make an unannounced check on their work from time to time. He must appoint a deputy in his absence.

(*b*) In questions of fundamental importance he must obtain the decision of Gestapo Regional Headquarters (branch office). It is also his duty to report to this office any special occurrences.

(*c*) In cases where the safety of the camp is in immediate danger, he must of his own initiative call in the ordinary police if it would take too long to call in the State Police.

5. The guards and plant personnel must exercise the necessary reserve towards the workers and must be quiet, serious and firm. They must not engage in unnecessary conversation with them, nor must they render themselves guilty of injustice or favoritism towards individuals. Any intercourse with the workers outside the performance of duties is forbidden. Especially is it forbidden to act as go-between for orders, or to accept presents, etc.

6. (*a*) The slightest signs of insubordination or disobedience must be dealt with ruthlessly, and arms must be used unsparingly to break any resistance.

(*b*) Escaping Russians must be shot at with the firm intention of hitting them. Otherwise the regulations for police officials on the use of arms also apply to the use of arms in these cases. A written report shall be made to the competent Gestapo Regional Headquarters (branch office) on every case of use of arms. The guards must at all times be conscious of their special responsi-

bility for the safety of the camp and the supervision of the inmates.

C. *Reception*

7. The names of fresh arrivals of Russians must be entered in the camp book (camp files) to be kept by the camp administration. Their exact personal data must be ascertained and compared with the papers (passports, transport slips, or, if already available workers' cards). Discrepancies must be taken up with the local police authorities.

8. Arrangements should be made as soon as possible with the local police authorities to provide the Russian workers with a badge, and to impress upon them what their duties are—see 2 and 3. Stocks of badges must be kept by the local police authorities. The local police authority will get in touch with the competent economic office in order to obtain the material required for the sewing on of the badges.

D. *Punishments*

9. (*a*) Strict discipline and order must be maintained in the camp and at the place of work. The workers must obey the orders of the guards and, when in the camp, the orders of the camp personnel. A worker who refuses to submit to the orders issued, or who neglects his work will be punished.

The following punishments are permissible:

(1) Drill after working hours.

(2) Assignment to penal details.

(3) Depriving of hot meals for a period not exceeding 3 days a week.

(4) Imprisonment for a period not exceeding 3 days.

(*b*) In particular those workers who are negligent and slow in their work shall be assigned to penal details. These workers will be deprived of all privileges. They must be treated particularly harshly. The plant decides as to the work to be allotted to the penal detail.

(*c*) The prison penalty will be cell confinement, deprivation of work, of movement in the open air, and of the bed, also limitation of the food to bread and water.

(*d*) The penalties will be decided by the chief of the guard. Every penalty must be noted in the penalty book. Penalties such as described under 3 and 4 must also be reported to the competent Gestapo Regional Headquarters.

10. Grave offenses against discipline, disobedience, acts of or attempts at sabotage, cases of sexual intercourse, or criminal offenses, must be reported immediately to the Gestapo Regional

Headquarters in control. The offending worker must be kept in prison until further instructions are issued.

Signed: DR. ALBATH
Certified:
Signed: WELLERSHOFF
Administrative Office Employee

PARTIAL TRANSLATION OF VON BUELOW DOCUMENT 794 DEFENSE EXHIBIT 1355

EXTRACTS FROM A HIMMLER DECREE, 15 DECEMBER 1942, ENTITLED "COMBATING OF VIOLATION OF LABOR CONTRACTS BY FOREIGN WORKERS"

*Combating of violation of labor contracts by foreign workers.**

Circular Decree by the Reich Leader SS and Chief of German Police in the Reich Ministry of Interior dated 15 December 1942. S IV D No. 479/42 (foreign workers)—(excerpts)
Emergency-decree dated 16 November 1942—S IV D No. 479/42 (foreign workers)

* From collection of general decrees of the Reich Security Main Office (RSHA), 2 A III f, pp. 93–98.

For the implementation of procedure for the purpose of combating violation of working agreements as established in abovementioned decree and agreed upon with the Plenipotentiary General for Labor Allocation, I direct the following:

1. *Fundamental principles*

(1) The obligation by foreign workers to performance of work results from their working-agreement and from additional regulations in this respect, the latter also allowing, among other things, for a prolongation of the duration of the agreement (service obligation).

(2) Foreign workers are recruited on the basis of equal treatment with comparable German workers—apart from exceptions (as for instance eastern workers)—and are therefore subject, as in the case of natives, to all German regulations. They, consequently, likewise incur responsibility in cases of violations of the obligation to perform work. The fact that, pursuant to abovementioned decree, the Secret State Police is here employed to a more extensive degree than in connection with the combating of contract-violation by German workers, is no deviation from the principle of equal treatment of foreign and German workers, but an internal German regulation of procedure arising from the fact

of the allocation of foreign workers being a particular source of danger.

(3) Decisive for the combating of contract violations by foreign workers are principles quoted in the decree of 7 December 1942 S IV D No. 505/42 g—451 (foreign workers)—with reference to defense precautions in connection with the allocation of foreign workers. Special attention is to be paid to the statements of this decree with reference to the foreign workers' contracts with the Security Police and general preventive measures. The elimination of justified complaints, that is to say, the fair treatment of the foreign worker, which includes his employment on the basis of his capabilities and in accordance with his agreement, his instruction by the plant on the work and range of duties, and the compliance by the plant with all other obligations undertaken, must act as preventive measures against violations of contract and, moreover, become the basis of effective formulation of future, requisite proceedings by the State Police.

Supplemented by decrees dated 10 April 1943, 13 July 1943, 27 September 1943.*

(4) These preventive measures will result in a close cooperation with the Reich Trustee of Labor and his deputies as well as the organizations authorized with the care of the foreign workers. (German Labor Front and National Food Agricultural Estate).

(5) The regulation made public by the above-mentioned decree makes the Regional Headquarters of the State Police primarily responsible for the effective combating of contract violations by foreign workers. The performance of this duty incumbent on the State Police must be guaranteed, even if for no other consideration than that of maintaining and increasing German war production.

2. *Measures*

Decisions on measures to be taken in individual cases are fundamentally incumbent on the Regional Headquarters of the State Police.

a. Reports will be forwarded to the Reich Trustee of Labor, or his deputies only in the case of special examination of subjects connected with industrial law or where a fine should prove preferable to the introduction of measures by the State Police. Judicial proceedings against the foreign workers for violation of agreement are as a rule undesirable and will be effected only in case of necessity in connection with other punishable offenses, by the forwarding of reports to the Reich Trustee of Labor. No report will ever be sent to the Reich Trustee of Labor in connection with "labor forces from the East" as mentioned in the

* The footnote which appears above in the text had no reference symbol in the original document; however, it is believed it refers to this decree of 7 December 1942.

decree of 20 February 1942—S IV D No. 208/42 (foreign workers).

b. The State Police in dealing with the violation of working agreements by foreign workers may apply the measures customary with the State Police—above all warnings, short period reformatory detention, assignment to a workers' training camp. Short period detention during which a prisoner is not compelled to take a part in reformatory work can be rendered more severe according to decree of 1 April 1941—S II C 3 No. 9048/40—274–1–.* A security deposit, if at all advisable, should be inflicted

* Continued in [Section] 2 C.

only as a supplementary measure. Assignment to a concentration camp is only to be effected in the most extreme cases, it being desirable for the foreigner to fill his place in the free economy of the country, in the case of members of Allied nations an investigation is to be made with regard to the advisability of an assignment to a workers' training camp with subsequent evacuation to his home rather than sending him to a concentration camp (as far as this is admissible at all).

* * * * * * *

4. *Information sent to Reich Trustee of Labor*

* * * * * * *

5. *Search*

* * * * * * *

6. *Return* [Rückfuehrung]

* * * * * * *

7. *Procedure by plants*

(1) Plants must be effectively impressed with the importance of complying with their duties with regard to foreign workers, these duties being of preventive [praeventiv-polizeilich] significance. This compliance, in case of need, is to be ensured by the measures under 4 of the above-mentioned decree. In spite of errors committed by plants, State Police measures may also be rendered necessary against disorderly foreign workers.

8. *Special regulations*

* * * * * * *

9. *Workers' training camps**

There is an urgent call for the creation of numerous workers' training camps, indispensable for the effective combating of contract violation by foreign workers. The present lack of workers'

* See section VIII D, below, on special training and penal camps.

training camps is no excuse for interposing ineffective, superficial measures. Negotiations should be entered upon with the interested plants and/or the construction deputy of Reich Minister Speer for the erection of huts, that is to say for camp supplies for the establishment of workers' training camps. Should these offices be unable to supply the huts they should be claimed from RSHA—Report II C 3—according to number and designated type. Mention is made here of the fact that the construction of huts is centrally directed by the deputy for timber construction and that only standard labor service huts are manufactured. This should be taken into consideration when making the requests.

* * * * * * *

TRANSLATION OF DOCUMENT NIK-9301
PROSECUTION EXHIBIT 968

REPORT BY DR. WIELE, INITIALED BY DEFENDANT IHN, 15 DECEMBER 1942, CONCERNING MEDICAL EXAMINATIONS OF FEMALE EASTERN WORKERS AND GENERAL COMMENTS ON HEALTH CONDITIONS

Essen, 15 December 1942

[Stamp]
Secretariat Ihn
Diary No. 1031
Received: 17 December
Krupp Hospitals, Medical Clinic
[Handwritten] attention Mr. Ihn
[Initial] I [IHN] 17 December
17 December [Signed] BEUSCH 16 December 42
[Initials] v.B. [Buelow] [Initial] B. [BEUSCH]
[Illegible initials]

22 December
Dr. Beusch:

The camp nurse of camp Spenléstrasse for female eastern workers imparted to Dr. Jaeger her belief that most of the eastern workers in the camp were pregnant, and offered as a reason that in this way they try to arrange their return to Russia.

Accordingly, the women of this camp have been examined by gynecologists. The examinations were made under the supervision of the chief physician of the female clinic, Dr. Schildberg. The other examining physicians were Dr. Wagner and Dr. Duepmann.

According to Dr. Schildberg's report 677 women were examined, 11 of whom were found to be pregnant and 2 with a possible pregnancy of 3 months. 193 of the women were found to have

a so-called amenorrhea (absence of menstruation) of more than 3 months' duration. Altogether the number of women with amenorrhea is estimated at from 40 to 50 percent. The condition in question is one found frequently in camps and similar places.

The percentage of virgins up to the age of 25 years was noticeably high; it is estimated at 30 percent. The general condition of health and the state of nutrition was quite satisfactory in the case of all the women. It is remarkable that there was only one case of a woman with a gynecological condition.

An eastern worker died suddenly in the wheel-set shop 3 days ago. In order to determine whether or not the death had been caused by carbon monoxide poisoning, an autopsy was made by Dr. Husten, the association's specialist in pathological anatomy. In this autopsy no indications, microscopic or otherwise, of carbon monoxide poisoning were found. The blood analysis also had a negative result. No organic ailment of any other kind was found, although a condition of malnutrition to an extreme degree was determined. The fat tissue had disappeared from the entire organism and only a so-called gelatinous atrophy was left. The liver was small, lacking fat and glucose; the musculature was weak.

It is worth noting that this Russian is supposed to have been here in Essen for 5 months. The case shows that eastern workers who arrive here in a severely reduced state of health in general, cannot be restored to a normal condition of nutrition by means of the diet offered.

The Russian's organism could not store up even the slightest amount of energy reserves in fat or carbohydrates. Moreover, the inferior endurance of the Russian led to an incorrect estimate of his working capacity.

[Signed] WIELE*

* Dr. Wiele was chief of Krupp hospitals, Essen. He executed a number of affidavits which were introduced by defense counsel and he appeared as a defense witness. One of his affidavits and extracts from his cross-examination are reproduced below in section VIII C 4.

TRANSLATION OF DOCUMENT NIK-10917
PROSECUTION EXHIBIT 851

MEMORANDUM OF KRUPP DIRECTORIUM, 29 JANUARY 1943, ANNOUNCING THE APPOINTMENT OF DEFENDANT KUPKE AS HEAD OF AN ADMINISTRATIVE OFFICE SUPERVISING ALL CAMPS AND HOMES OCCUPIED BY FOREIGN WORKERS

Main Administration No. D 23

Cast Steel Works, 29 January 1943
Bi/J

To the Plants and the Offices

Subject: Camp administration

An administrative office has been established to supervise all camps and homes occupied by foreign workers. Mr. Kupke has been appointed to act as its chief.

Mr. Kupke is responsible for procuring quarters for the foreigners, for the discipline, orderliness, and security of the camps, for the extent of fitness of the quarters, for sanitary measures, and for organizing the leisure time. He enjoys the rights of a master of the house. The leaders of the individual camps are subordinated to him.

The administrative office of the camp is directly subordinated to the Vorstand.

All other provisions of the circular letter H.V. No. 5914 of 27 May 1942 will be enforced unchanged.

Fried.Krupp Incorporated
The Direktorium
[Signed] GOERENS [Signed] LOESER

TRANSLATION OF DOCUMENT NIK-10914
PROSECUTION EXHIBIT 852

CIRCULAR LETTER OF THE KRUPP DIRECTORIUM, 17 MARCH 1943, MAKING CAMP MANAGEMENT SUBORDINATE TO DEFENDANT IHN

Cast Steel Works, 17 March 1943
Bi/J

Subject: Camp management

No. D 32

To the Directors and Plant Directors

Subject: Camp management

In order to unify labor allocation outside the plant as much as possible and to derive the greatest possible benefit from it, the camp management will be subordinate to Mr. Ihn.

903432—51——58

The rights and duties of Mr. Kupke as head of the camps and homes, as established in the circular Main Administration No. D 23 of 29 January 1943, remain the same as before.

Fried. Krupp, Incorporated
The Direktorium
[Signed] ALFRIED VON BOHLEN UND HALBACH
[Signed] LOESER

PARTIAL TRANSLATION OF DOCUMENT NIK-9206 PROSECUTION EXHIBIT 969

OFFICE MEMORANDUM FROM DEFENDANT VON BUELOW TO DEFENDANTS LEHMANN AND KUPKE AND TO HASSEL,[1] 22 OCTOBER 1943, FORWARDING AND COMMENTING UPON GESTAPO REGULATIONS CONCERNING EASTERN WORKERS

[Handwritten notation illegible]
[Initial] WILSHAUS[2]
30 October 1943

Cast Steel Works 22 October 1943
v.B./S [VON BUELOW/S]
HAbwB [chief counterintelligence agent]
No. 1041/II

To
Dr. Lehmann
Mr. Kupke
Mr. Hassel

[Stamp] Secret

Subject: Eastern workers

Attached, I am sending you copy of an extract of the last information leaflet of the Secret State Police,[3] sent to me in my capacity as political and police counterintelligence agent for information and for pertinent action.

On the individual points I wish to comment as follows:

1. A copy of paragraph 16 III concerning "Ostaerzte" [physicians for the eastern workers] is also being sent by me to Dr. Wiele, for his information.[4]

2. As regards paragraph 16 IV (Duty to display distinguishing mark) the plant police are being asked by me to enforce the control measures so that—

[1] Hassel was deputy chief of Krupp's plant police.
[2] Wilshaus was chief of Krupp's plant police.
[3] The extracts were from a leaflet dated 23 September 1943. The portions of the extracts which the defendant von Buelow comments upon are reproduced below.
[4] Dr. Wiele was chief of Krupp hospitals in Essen.

a. Eastern workers in the plants and on the plant sites will display at all times the eastern worker's insignia.

b. Those who display it on the left arm should have the necessary certification with them. Reports on controls thus to be carried through should be made to me on the first of each month.

3. Paragraph 16 V (Escape and breaches of labor agreement). —I am asking the Main Camp Administration to advise me whether the manner here proposed for distinguishing marks on clothing is feasible, and, if so, whether measures are being taken.

4. Paragraph 16 VI—It is indeed very deplorable that the general order which prohibits visits to German stores by eastern workers is being violated so frequently. In any case we should hold to the rule that on their way to and from work the detachments remain in closed ranks, then visits to stores cannot be made.

5. Paragraph 16 VIII (Mail service)—The State Police notification, dated 18 August, to the effect that confidential agents selected by us are to make spot checks of the eastern workers' mail, provides us with a supplement to that order. I am reminding the Main Camp Administration that a reply to my letter of the 14th instant is still outstanding (appointment of confidential agents).

[Stamp] Signed: VON BUELOW

---

4 copies—4th copy

[Stamp] SECRET

Extracts from Information Leaflet issued by the State Police on 23 September 1943

* * * * * * *

16. Eastern workers' assignment for labor (confidential)—The instructional pamphlets [Merkblaetter] issued by the State Police offices at Duesseldorf for the enforcement of regulations of the Security Police concerning Soviet Russian labor originating from the territory of Russia proper continue to be valid. In this connection the following supplementary remarks are made:

* * * * * * *

16. III. *Ostaerzte* [physicians for eastern workers]—In view of the shortage of physicians Soviet Russian male and female physicians who are to care for the eastern workers were also transported into the Reich.

On the labor index card these physicians are being referred to as "Ostaerzte" or "Ostarzt" (Feldscher)."

Upon request made by the labor offices these physicians are exempted from the obligation of displaying the insignia "East" and, instead, they are bound to wear at all times a brassard—

the colors of which are identical with that of the insignia "East" with the imprint "Ostarzt" [physician for the eastern workers]. It is a function of the labor offices to procure and distribute the brassards which, before being handed out, must be stamped by the district police office. General regulations are applicable to the physicians for the eastern workers.

The following guiding lines should be abided by:

1. Physicians for eastern workers are to be quartered exclusively in camps for eastern workers where, by reason of their particular professional duties, separate quarters *in the camp* may be made available to them.

2. They are not entitled to spare time. However, provided their conduct is satisfactory, it may be possible for them to spend some time, once a week, outside the camp. This absence from the camp must be terminated at dusk at the latest at 2000 hours. Visits to restaurants, movies or other theaters, and similar facilities or arrangements provided for German or foreign workers are prohibited. Church visits are also prohibited.

3. If physicians for eastern workers are entrusted with the care of several camps they can move freely between the camps for the discharge of their medical duties.

4. Physicians for eastern workers and other members of the eastern people who accompanied transports of eastern workers into the Reich can be recruited for work which involves the medical care of eastern workers. If a utilization in that manner or one arranged for by governmental agencies is not given, they are not permitted to go about freely while sojourning in the Reich.

IV. *Duty to display insignia*—Henceforth it is permitted to display the distinguishing mark "East" also on the upper left arm as a badge of merit. Classification of eastern workers according to which—by reason of conduct and efficiency—their display of the distinguishing mark on the chest, right-hand side or on the upper left arm, is made by the Betriebsfuehrer [plant manager] upon consultation with the Betriebsobmann [shop steward] and the camp leader of DAF [German Labor Front], and with the respective offices of the Reichsnaehrstand [Reich Food Estate] whenever this involves eastern labor used in agriculture. Eastern male or female workers who display the distinguishing mark on the upper left arm must carry with them a certification issued by the plant leader. This certification must bear the signature of the plant leader and/or of the head of the household as well as that of the competent DAF office or of the Reichsnaehrstand. In the case of newly arrived eastern workers the respective decision by the plant leaders as to the manner of display of the distinguishing mark should not be made until after a working period of at least

three months. If the efficiency decreases the plant leader is authorized to ask for the return of the certificate should a warning previously given remain unheeded. The surrender of the certificate can also be enforced by the police whenever the eastern worker violates regulations promulgated on their behalf. A government police regulation on eastern workers, promulgated on 16 July 1943, provides the imposition of a compulsion fine upon eastern workers who evade the duty of wearing the distinguishing mark. An additional government police regulation covering restraints in the conduct of life of eastern workers was promulgated on 16 July 1943. It authorizes any local police office to impose a fine on eastern workers who—

1. leave their domicile without written police permit,
2. use public means of transportation beyond the confines of their place of work,
3. violate regulations establishing when they may go out,
4. in disregard of prohibitions visit cultural gatherings, involving churches, entertainment, or social contacts,
5. enter public places where meals are served from which they are barred.

According to this police regulation *any man* (indigenous or foreigner) also commits a legal offense who abets disregard of regulations by an eastern worker. Violations of the police regulations referred to must be brought to the attention of the local police offices. It is being requested that these punishments be applied freely.

In particular it is being stressed again that camp leaders and also plant leaders are by no means authorized to issue certificates according to which eastern workers are granted permission to leave the local police district.

V. *Escape and breach of labor contract*—Over and over again escaped eastern workers are being picked up and it is impossible to determine the place of work which they left. From now on it is permitted to print the name of the firm and of the location on the inside of the eastern worker's garments. To make it more effective this print should appear in several places, i.e., on the inside of the garments (not visible from the outside, and printed with indelible paint). As coloring matter the yellow ink used for the marking of clothes, which is light and water resistant can be procured from the firm of Paul Heinz, Duesseldorf, No. 86 Muensterstrasse, telephone 133620. For light-colored garments the same type of ink in black is being recommended.

VI. *Entering of German stores by eastern workers*—The relaxation in regulations governing the permission to go out resulted in eastern workers' entering German stores more and more fre-

quently; undesirable as this may be, it is impossible to decree a prohibition.

The competent Reich authorities have taken steps to bring to the attention of the retail trade that scarce merchandise is not to be sold to eastern workers, and other merchandise only if it has been made sure that despite such sales the needs of the German buyer can be fully satisfied. [Handwritten: Milk?] In any case, however, eastern workers must not be permitted to enter German barber shops since it means an imposition for German racial comrades [Volksgenossen] to have their physical culture needs attended to after eastern workers. The owners of the barber trades have been already informed accordingly. It is being requested that the camp management inform the eastern workers accordingly. Members of the camp personnel who are to supervise inmates on their outing from the camp are responsible for the enforcement of this regulation.

VII. *Pregnant eastern workers*—Female eastern workers who are pregnant should no longer be reported to the State police but merely to the competent labor office; steps concerning their quarters, etc., will be taken by these offices.

VIII. *Mail service*

a. Inland mail service—Eastern workers are permitted to use inland postal facilities within the Reich boundaries. About one tenth of the incoming mail should be turned over for examination to the competent State Police officers for examination before being handed to the addressee. This examination cannot be dispensed with.

b. Mail to the home territories—Messages by letter are no longer permitted. The eastern workers are merely permitted to mail twice per month postal cards such as are provided for them.

* * * * * * *

TRANSLATION OF VON BUELOW DOCUMENT 111
DEFENSE EXHIBIT 1320

DECREE OF THE PLENIPOTENTIARY GENERAL FOR LABOR ALLOCATION, 1 NOVEMBER 1943, CONCERNING PLANT DISCIPLINE AND THE RESPONSIBILITIES OF PLANT LEADERS

Special Edition of the Reich Labor Gazette 1943 No. 32 Part I

Decree No. 13 of the Plenipotentiary for Labor Allocation for the

Maintenance of Law and Order in the plants
(as of 1 November 1943*)

* Published in the Deutscher Reichsanzeiger und Preussischer Staatsanzeiger No. 260 of 6 November 1943.

Absolute maintenance of plant discipline is necessary in order to procure the required war material for the fighting front. It is above all, the duty of the plant managers to enforce this discipline and, in case of need, to reestablish it. By virtue of Article 1 of the ordinance concerning wage policy of 25 June 1938 (Reich Law Gazette, page 691) in combination with Article 2 of the carrying-out decree of the ordinance concerning wage policy of 23 April 1941 (Reich Law Gazette I, page 222) and the ordinance concerning the authorization of the Plenipotentiary for Labor Allocation to issue decrees with legal force, of 25 May 1942 (Reich Law Gazette I, page 347), I decree the following with regard to private industry:

Article 1

The plant manager and his delegates must always keep a strict eye on plant discipline and take steps against infractions according to Articles 2 to 5.

Article 2

The plant manager may punish infractions of staff members against the order (plant discipline) or the security of the plant with warnings or fines, according to the following regulations, even if such measures are, up to now, not included in the regulation of the plant order or in the labor contract regulations, namely,

1. Minor infractions, for instance a first case of unpunctuality, with oral or written warning,

2. Major infractions, for instance unexcused absence or absence without sufficient reason, repeated unpunctuality or unauthorized leaving of the working place or leaving before the fixed time, as well as repeated minor infractions, with a maximum fine amounting to the average wage for one day;

3. Most serious infractions, for instance repeated infractions as under No. 2 or deliberate disobedience to orders of the plant manager or of his delegate, with a maximum fine amounting to the average wages for a week.

Article 3

The warning as well as the fines are imposed by the plant manager or by a person charged by him with the management; in case there is one in existence fines are inflicted after deliberation of the shop committee.

In plants, where there is no shop committee in existence, the plant manager has to report the imposition of a fine to the chief of the labor office of the district to which the plant belongs, as to the delegate of the Reich Labor Trustee. The same has to be done in other plants at the imposition of a fine exceeding the aver-

age wage for one day. In these cases, the imposition of a fine becomes ineffective, if the chief of the labor office as delegate of the Reich Labor Trustee objects to it within 1 week after the report has been received.

Fines may be deducted from wages or salaries. They are to be transferred by the plant manager to the NSV pay office of the plant district.

Article 4

In case that the plant manager believes that assistance by the DAF [German Labor Front] might be effective, it is recommended to request its intervention, besides the measures by the plant.

Article 5

If the means of the plant and through the plant are, in the opinion of the plant manager, not sufficient or if they have already been applied, he must report the case immediately, in case of Germans to the chief of the competent labor office as delegate of the Reich Labor Trustee, in case of foreign nationals (including members of the Protectorate, and persons under the protection of the German Reich) and of eastern workers, to the local police office.

Article 6

A copy* of this decree has to be posted in the plants at an appropriate place within sight of the staff members.

* Copies of this decree, with comments may be ordered from the business office of the Reich Labor Gazette, Berlin SW 11, Saarlandstr. 96.

Article 7

The plant managers or their delegates who deliberately or by negligence do not comply with this decree or evade it will, according to Article 2 of the ordinance concerning wage policy dated 25 June 1938 (Reich Law Gazette I, page 691), be sentenced by request of the Reich Trustee or the Special Labor Trustee, to imprisonment and to a fine, the maximum amount of the latter being unlimited, or to one of these punishments; he or she will be sentenced—according to Article I of the 3d regulations for the implementation of section III (wartime wages) of the war economy ordinance dated 2 December 1939 (Reich Law Gazette, p. 2370), in combination with the 5th regulation of the implementation of section III (Wartime wages) of the war economy ordinance, replacement of irrecoverable fines by imprisonment, dated 14 April 1942 (Reich Law Gazette I, p. 180) to a fine, to be replaced, if irrecoverable, by detention of not more than 6 weeks. Accomplices (instigators, offenders acting with common intent, and accessories) are also liable to punishment.

Article 8

This decree comes into force as of 15 November 1943. At the same time the district ordinances of the Reich Labor Trustees for the securing of order in plants lose their validity.

The decree concerning breach of labor contracts and dismissal as well as demands of unreasonably high wages in private industry of 20 July 1942 (Reich Labor Gazette No. 22, p. I 341) remains in force. Its regulations concerning the authority of the Reich Trustees and Special Labor Trustees (Art. 8, pars. 2 to 4) as well as concerning the purview (Art. 9) remain in force accordingly. The decree is, however, not to be applied with regard to ocean and ships and airplanes and their crews.

Berlin, 1 November 1943.

The Plenipotentiary General for Labor Allocation

FRITZ SAUCKEL

TRANSLATION OF DOCUMENT D-283
PROSECUTION EXHIBIT 911

FILE NOTE OF KRUPP HOSPITALS AT ESSEN, 7 MAY 1943, LISTING THE CAUSE OF DEATH OF 54 EASTERN WORKERS*

Essen, 7 May 1943

Krupp Hospitals

Subject: Deaths of eastern workers

54 Eastern workers died at the hospital Lazarettstrasse, 4 of them through external causes [aeussere Einwirkung] and 50 of disease. The causes of death of these 50 who died from disease, were tuberculosis 38 (including 2 women); malnutrition 2; hemorrhage of the stomach 1; intestinal diseases 2; typhus 1 (female); pneumonia 3; appendicitis 1 (female); liver disease 1; abscess 1.

The compilation therefore shows that four-fifths died of tuberculosis and malnutrition, i.e., 80 percent.

* Dr. Gerhard Wiele, chief of Krupp hospitals, wrote this report to the head of Krupp's Health Insurance Administration, according to an affidavit he gave to the defense (Ihn 85, Def. Ex. 744) reproduced below in section VIII C 4.

TRANSLATION OF IHN DOCUMENT 138
DEFENSE EXHIBIT 846

LETTER FROM AN OFFICE OF THE REICH COMMISSIONER FOR THE OCCUPIED NETHERLANDS TERRITORIES TO KRUPP, 21 DECEMBER 1943, CONCERNING BLACK MARKET PURCHASES OF FOOD STUFFS BY KRUPP REPRESENTATIVES IN THE NETHERLANDS

The Reich Commissioner for the Occupied Netherlands Territories
Deventer, 21 December 1943
Bagijnenstraat 1
The Commissioner General for Finance and Economy
Department for Price Regulation
FW/Pr: B 2 a 2—7690

The Fried. Krupp A.G.

Essen

[Stamp]
Mr. A. von Bohlen
Mr. Goerens
Mr. Janssen
Mr. Ihn
Mr. Haerlin

Subject: Black-market purchases of food stuffs in the Netherlands

I gather from reports of the Netherlands Price Control Office that lately representatives of your firm repeatedly attempted to purchase food stuffs on the black market in the Netherlands. Thus it has, for instance, been established that a certain Mr. Slikker, of Essen, described as a buying agent of your firm, attempted to purchase substantial quantities of apples at Arnhem at approximately six times the official price, through a certain Mr. Freistein, who was promised an additional compensation of Fl.400. for each freight car-load of apples delivered at Essen. It was further reported to me, that potatoes, beans, dehydrated vegetables, onions etc., were recently bought on a large scale at prices amounting to at least 6 times the controlled price by the afore-mentioned Mr. Slikker and a certain Dr. Vos, who claims to be an authorized representative of your firm. I have also ascertained that no permits had been issued by the competent rationing authorities for these purchases. You will be aware that the purchase of food stuffs on the black market is prohibited and threatened with heavy penalties, not only in the Reich but also in the occupied Dutch territories. I have therefore ordered the most stringent measures to be applied in the case of the Dutchmen involved in the purchases. As the afore-

named persons who violated the existing economic wartime regulations claimed to be your representatives in the Netherlands, and insisted that in effecting their purchases, they were fully supported by the highest authorities, I am giving you the opportunity to state your point of view to this matter. I request that a statement of the director responsible for the purchase be included, and that the invoices already in your possession be sent to me.

I anticipate having your reply by 5 January 1944, and reserve the right to bring the matter to the attention of the Reich Commissioner for Price Regulations.

[Signature Illegible]

PARTIAL TRANSLATION OF IHN DOCUMENT 202 DEFENSE EXHIBIT 2694

EXTRACTS FROM THE 1942–1943 ANNUAL REPORT OF KRUPP'S MAIN STORAGE (SUPPLY) ADMINISTRATION* CONCERNING WARTIME DIFFICULTIES, AND THE ESTABLISHMENT OF A CLOTHING REPAIR SHOP FOR EASTERN WORKERS

* * * * * * *

I. General statements—The adjustment of the whole German economy to the requirements of war and the *governmental direction and managing* of almost all goods has made a very strong impact upon our work. Of the approximately 6,000 articles, which are listed here, hardly one can still be obtained freely on the market. They can only be procured by way of buying permits, quotas, allocations, affidavits, assurances, proof of need, reports, lists, urgency certificates, armed forces numbers, iron certificates, metal certificates, etc., etc. The great variety of the goods carried here necessarily results in a large variety of directing, approving, allocating, and managing authorities. Practically it is so that there is hardly any one of these authorities in the Reich, the decrees of which would not affect us and which we would not have in some way to consider and pay attention to, in the procurement, storing or distribution of goods. To this must be added the fact that deliveries are not made as before on the basis of long-term agreements, at fixed prices and conditions, and on dates determined by us, but often in inordinately large and then again in unreasonably small *partial and individual deliveries.*

The *transport difficulties* on the Reich railroads and in the

* Storage (Supply) House Westend Strasse (HLV-LHW).

Reich postal service, as well as the shortage of trucks and carts are very disturbing. A great amount of additional work is caused by weeks of blocking of freight transports with us or on the part of the supplier, lacking possibilities to drive to and from stations, packages that are reported lost or damaged, and such as arrive very late.

Through *enemy air attacks* during the period covered by this report the LHW has always been hit more or less. Although spared direct destruction by a full bomb hit and although incendiary bombs and phosphorus bombs dropped on us could quickly be rendered harmless by the vigilant employment of our own air raid protection squad, the devastation and destruction inflicted within the building still were quite large. Shattered walls, turned over cupboards and bookshelves, goods of various kinds thrown together, damage to light and power wires, thereby often causing interruption of freight-elevator service, and thus the necessity to transport shipments, which in part weighed tons, over 4 stories.

* * * * * * *

A room was put at our disposal on the ground of the Colliery Herkules. We made an *eastern worker clothing shop* of it, put in three eastern workers who were trained tailors, as well as 25 eastern female needle-workers, who then started work under the supervision of a trained directress provided by us. The sewing machines necessary were supplied by us partly from our own supplies, partly from various places of the Cast Steel Works. Within a few days the shop was equipped and repaired daily hundreds of pieces of clothing. The parts were procured from the Altenessen store, finished, and to the greater part soon issued again to the factories and camps and accounted for.

Through enemy action on 13 January 1943 the Altenessen store, was partly destroyed, however the clothing still available was saved for the greater part. This we have also shipped to Herkules. When this store was also partly damaged by a bomb in the night of 5–6 March 1943 and the employed eastern workers were removed after their camps had been destroyed, we closed down the clothing shop and finished the small quantity of clothes still available in our needle shop. About 24,000 pieces of clothing went through this place in about 3 months, were worked on and issued.

* * * * * * *

TRANSLATION OF DOCUMENT NIK-14364
PROSECUTION EXHIBIT 1593

HANDWRITTEN MEMO FROM DEFENDANT VON BUELOW TO DEFENDANT IHN, 15 JANUARY 1943, RECOMMENDING AN INCREASE IN HASSEL'S SALARY, AND APPROVAL BY DEFENDANT IHN*

15 January 1943

[Initialed] I. [IHN]
Mr. Ihn c/o Mr. Beusch,

[Initialed] B. [BEUSCH]

I want to make a strong plea herewith for a raise to be made in Mr. Hassel's salary from RM 510 to RM 605, starting on 1 January this year. Mr. Hassel has been in our service since 1 October 1938 and has never received any raise in his salary. In these recent months, Mr. Hassel was especially efficient. In cases of enemy attacks he immediately goes to the damaged sites, in disregard of his own safety, and gives in person all necessary instructions as deputy chief of the plant police.

[Signed] VON BUELOW

[Typewritten note]
1. Request approved
Essen, 27 January 1943

[Stamp] Fried. Krupp, Incorporated
[Signed] IHN
[Initialed] B [Beusch]
29 January 1943

2. Dr. Beusch
3. Dr. von Buelow
4. Mr. Haupt

* Hassel was deputy chief of the Krupp plant police in Essen. His conduct in relation to foreign workers is frequently mentioned both in contemporaneous documents and in testimony of prosecution and defense witnesses. Hassel was not called as a witness by either the prosecution or the defense, although he was available. On 27 May 1948, Dr. Pohle, counsel for the defendant von Buelow, made the following statement to the Tribunal: "The Court wishes an explanation regarding the witness Hassel. I may tell you the following: I am not yet able to tell whether I shall call the witness Hassel or not, and consequently I reached an agreement with Mr. Ragland, deputy chief counsel on the prosecution staff to the effect that the witness shall be available both to the prosecution and defense and can be heard under those terms. I believe that settles the matter." (Tr. p. 9983.)

TRANSLATION OF DOCUMENT NIK-12362
PROSECUTION EXHIBIT 998

FILE NOTE OF DEFENDANT VON BUELOW, 7 OCTOBER 1943, INITIALED BY DEFENDANT LEHMANN, CONCERNING A DISCUSSION WITH CAPTAIN BORCHMEYER ON THE PUNISHMENT OF PRISONERS OF WAR AND NOTING THAT CERTAIN RUSSIAN PW's TURNED OVER TO THE GESTAPO ARE EXECUTED

Cast Steel Works, 7 October 1943
v.B./Ste. No. 921/11 HAbwB.
[Initials] LEHM [Lehmann] 11 October
[Illegible initials]

[Stamp] CONFIDENTIAL

Note

Subject: Discussion with Captain Borgmeier[1] regarding the punishment of prisoners of war[2]

I discussed the case of the Russian prisoner of war Gagiel with Captain Borgmeier. On 9 August, I spoke to the company directly after the report of Dr. Momm. Dr. Momm had reported that the Russian had expressed himself as follows to German personnel among others: "Everything will soon be ruined in Germany, then all officials, foremen, masters, plant chiefs, et cetera, will have their throats cut. Then we (the Russians) will live in the good houses; you Germans will then have to live in barracks." The company at once agreed to handle this case and to mete out punishment to the Russian. Actually, the punishment was delayed for a very long time, and in the meantime Gagiel escaped. In fact, nothing happened. It may be added that German personnel and Russian prisoners of war saw Gagiel freely walking about in the camp, which fact caused discussion in the plant.

I discussed with Captain Borgmeier how such cases could be dealt with in the future; Captain Borgmeier told me that in particularly flagrant cases we should telephone the company and ask to have the man temporarily arrested; at the same time we should telephone him at once urgently in Krefeld (tel. 24347, ext. 14). He would then immediately investigate the case. The possible punishments are as follows:

a. By the plant—The plants can deprive the Russian of any privileges, such as cigarettes, extra food rations, any output bonuses, et cetera.

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[1] The correct spelling of this name is Borchmeyer. Borchmeyer testified as a defense witness. Extracts from his testimony appear below in sections VIII C 4 and VIII G 3.

[2] Although this document deals generally with prisoners of war, it notes that Russian prisoners charged with crimes were to be turned over to the Gestapo. Hence, the document has been included here rather than in section VIII G, which deals in more detail with prisoners of war.

b. By the camp group commander—If he is an officer, he can inflict imprisonment for 24 hours on bread and water.

c. The company commander can order detention for several days, which detention can be carried out in such a way that the man performs his job, and begins serving his sentence at the end of each day's work.

If the criminal deed is of such a nature that it cannot be atoned for by such disciplinary sentences, then the case will be turned over to the military court for prisoners of war in general. Russians, however, are to be brought before the State Police. In such cases, the State Police always passes death sentences, for the execution of which a detail of other Russian prisoners of war may be used.

Captain Borgmeier will request the company officers to notify us of the sentences of the prisoners of war whose cases we reported, to enable us to make this known in the plant and to the other prisoners of war.

If Gagiel should be apprehended again and recognized as the same, Captain Borgmeier will contact us without delay. We agreed that the proper punishment in this case would be to turn him over to the State Police.

Copies:

Captain Borgmeier
Dr. Lehmann
Dr. Gummert

Dr. Gummert:

In view of the above note, I wish to request that in future such cases be handled according to the concluded agreements. However, I request that the contents of this note be treated as confidential, particularly in view of the death penalty. Please inform Dr. Momm also to this effect.

[Stamp] Signed: VON BUELOW

TRANSLATION OF DOCUMENT NIK-12987
PROSECUTION EXHIBIT 1365

MEMORANDUM FROM DEFENDANT VON BUELOW TO KRUPP'S PLANT POLICE, 16 FEBRUARY 1944, CONCERNING AN AGREEMENT BETWEEN THE REGULAR POLICE AND KRUPP'S PLANT POLICE

Cast Steel Works, 16 February 1944
von Buelow/Ste. No. 474/II HAbwB. via Mr. Wilshaus
Initialed Ws.
17 February 1944

Copy
To Mr. Hintz

1. Concerns inspection by local police [Fremdenpolizei], regarding the wearing of the eastern worker badge by the eastern workers in the Cast Steel Works. Paragraph 8 of the SAI file notice of 2 February 1944.

It has been agreed upon between the local police and the plant police that the police, except in cases of urgent danger, will not take any official action in the works area, without having previously notified the plant police. This would also apply to the said inspections. Should the police wish to hold them, they will have to contact the plant police first. If they do that, we will not object. I request to inform the engineers for labor allocation that if police officials enter the plant for inspection purposes, they have to get in touch with the plant police forthwith.

2. Concerns special camp/paragraph 10 of the file note.—I would like to point out that workers from the special camp may be employed only with my permission—and I have to get previous permission from the secret police in charge of the camp. It must be remembered that the primary requisite in the special camp is to "educate" the men, the urgency of the work is only secondary.

Signed: VON BUELOW

TRANSLATION OF DOCUMENT NIK-13867
PROSECUTION EXHIBIT 1084

REPORT OF WILSHAUS, CHIEF OF KRUPP'S PLANT POLICE, TO THE GESTAPO, 17 FEBRUARY 1944, TRANSMITTING A COMPLAINT AGAINST A FRENCH WORKER

17 February 1944
Va. Diary No. 462

To:
The Secret State Police
State Police Office, Duesseldorf
Branch Office Essen
Essen

Subject: French civilian worker
Robert Ledux
born 7 February 1912, living at Donnerstrasse community camp employed under Factory No. 494261 in our works "Tank Construction 3."

The attached carbon copy of a report on the above is sent to you for your information and request for further directions. We further remark that our tank construction 3 is a plant of the first priority.

[Handwritten] Signed: WILSHAUS

[Handwritten]
2. After 14 days.
[Initial] W [Wilshaus]

Fried. Krupp Incorporated Essen
Ka/Be.

Tank Construction 3
14 February 1944

To the Plant Police

Subject: Improper behavior of the French worker Robert Ledux, Factory No. 494261, born 7 February 1912, Camp Donnerstrasse

On 13 February 1944, between 11 and 12 in the forenoon, the worker Robert Ledux was ordered by the foreman Hagemann, at the ramp of the plant to move, together with two other workers, corner-iron weighing 30 kilograms, in order to enable a loaded truck to drive up the ramp. L. [Ledux] refused however to give a hand, and remarked "No food, no work," and pointed to the crane.

The crane was, however, at the time carrying out other tasks. Foreman Hagemann summoned him again to do his work. L. then began talking to the other Frenchmen who had gathered around, and persuaded them not to give a hand either. There-

903432—51——59

upon L. was sent off the place of work. L. made movements with his hands and made remarks which the foreman did not understand. When the crane was free, L. wanted to fix the chains, but the foreman would not permit it and pushed L. aside. Thereupon L. began to hit foreman Hagemann. The latter defended himself and returned the blows. We request that strong measures be taken against L.

L. was already fetched by the plant police on 13 February.

Witness—Karl Leding, Essen, Woerthstrasse 15.

Submitted to *Mr. von Buelow*—Notification to Gestapo has been made.

W.S., 17 February 1944
Va.
[Handwritten] Signed: WILSHAUS

[Handwritten]
2. for reference

17 May 1944

1. Ledux has escaped. Measures against him could not be taken.
Lo. [Lorenz]

[Handwritten] 2. to be filed

PARTIAL TRANSLATION OF DOCUMENT NIK-13893 PROSECUTION EXHIBIT 1085

SEVEN NOTES AND COMPLAINTS, 25 JANUARY-21 SEPTEMBER 1944, CONCERNING THE PUNISHMENT OF FOREIGN WORKERS*

1. Note from Plant Police to Office of Employees' Affairs

Plant Police, 21 February 1944

through Mr. von Buelow
To: B. f. A.

Va 395 to diary No. II S549

The Pole Boguslav Szarawarski, born on 24 March 1924, RW 6, is confined since 13 of this month in a punitive workers' camp for 56 days.

[Handwritten]
2. z.d.a. [to be filed]

[Handwritten] Signed: WILSHAUS

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* The order of these file notes is discussed in the testimony of Josef Lorenz reproduced below in section VIII C 4.

2. Note from Office of Employees' Affairs to Plant Police

To: Diary No. II S549

[Stamp]
Plant Police
2 February 1944
diary No. 395
man in charge

To: Plant Police

Delivered with the request to report S. to the Gestapo for punishment.

BfA 27 January 1944
phone 204
[Signed] BECKMANN

3 March 1944

1. Information to State Police.
2. After 10 days.

[Initial] W [WILSHAUS]

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3. Complaint (Filled-in Form) from Repair Shop 6 to Office of Employees' Affairs

[Stamp]
Foundry Essen
25 January 1944
Repair Shop 6

[Stamp] BfA diary No. II S549

To: B. f. A. 25 January 1944

We give the following information against employee for transgression against the work discipline. The measures which the shop can take are exhausted.

Szarawarski, Boguslav; factory No. 990573

Born: 24 March 1924 in Warsaw

Residing: Essen, workers' home Papestrasse

Nationality (for foreigners): Pole

Employed at the Cast Steel Works since 22 June 1942 as mechanic;

Average daily gross wage for average working time in the shop: RM 8,40.

(1) Delinquencies committed after exhausting of measures the shop can take:

a. Days missed without excuse—on 30 December, 3, 10, 20, and

24 January 1944.

b. Working time missed by coming late—

on 4 January__2 hrs 25 min	on 7 January __32 min
on 5 January__1 hr 18 min	on 8 January __21 min
on 6 January__1 hr 20 min	on 12 January__30 min

S. [Szarawarski] comes late nearly every day.

c. Working time missed by leaving too early: _____

d. Other offenses—S. was once sentenced by Reich Labor Trustee to labor camp for laziness.

(2) The employee is missing continuously since _____; he was _____asked in writing/orally to resume work.

(3) Former offenses of the employee (to be entered as under 1) _____

(4) The offenses under (3) were punished by measures taken by the shop.

a. Reprimand on _____ (record of reprimand available)

b. Fines up to one day's wage inflicted on _____ RM _____

c. Fines of more than one day's wage up to a week's inflicted on _____ RM _____

d. Deprivation of additional food tickets for the time for _____ till _____

e. Other measures _____

(5) Reasons the employee gives for his missed work: _____

(6) Detailed reports about his condition at home (state of his health; bomb damages—total—in part; for female employees: married—husband called to service—number of children): _____

(7) Short characteristic of the employee: _____

(8) Witnesses who can testify concerning the behavior of the employee (naming at least 2 witnesses with their personal data):

[Signature illegible]
Member, Workers' Council
[Signature illegible]
Chief, Workers' Council
[Signature illegible]
Plant Manager

---

4. Note from Plant Police to Gestapo, Essen

13 September 1944
[Handwritten] Diary No. 1291

Plant Police Essen
Thomaestrasse
To: The Secret State Police
State Police Regional Headquarters Duesseldorf
Branch Office Essen
Essen

Subject: Jan Cremers, Dutchman born on 28 Aug 1906 in Maastricht residing in Camp Lintorf

The above named is employed as transportation worker in our wagon workshop plant.

As to be seen from the report attached (copy) C. [Cremers] offended repeatedly against the work discipline.

We request therefore to proceed against Cremers with suitable measures.

[Handwritten] After one month

[Initial] W. [Wilshaus]

[Handwritten] Signed: WILSHAUS

C. was arrested during the action of 15 September 1944 and expelled as an unreliable foreigner.

Plant Police 19 Sept 1944 Lo. [Lorenz]

[Initial] W [Wilshaus]

---

5. Note from Office of Employees' Affairs to Plant Police Transmitting Complaint from Wagon Workshop

[Stamp] Plant Police
9 September 1944 Ve/Gr.
[Handwritten] 2 enclosures

To diary No. II C 444
2 enclosures
To Plant Police delivered

According to phone information of the wagon workshop, C. takes up working tardily in spite of punishments by the shop. We request to report him to the Gestapo for punishment.

BfA, 7 September 1944
Phone 204

[Signed] BECKMANN

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6. Complaint (Filled-in Form) from Wagon Workshop to Office of Employees' Affairs

Wagon Workshop, 23 August 1944
Kli

[Stamp] 25 August 1944

B.f.A./diary No. II C 444
To BfA

We give information against the following employee for transgression against the work discipline. The measures by the shop are exhausted—are not sufficient for the case.

Jan Cremers, factory No. 860507 born 28 August 1906 in Maastricht; residing—camp Lintorf; Nationality (for foreigners)—Dutchman.

* * * * * * *

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7. Note from Plant Police to Office of Employees' Affairs through Wagon Workshop

Plant Police, 21 September 1944
Va. 1291

To: B. f. A.

The Dutchman Jan Cremers, born on 28 August 1906 in Maastricht, factory No. 860507, was arrested on 15 September 1944 and expelled as an unreliable foreigner.

[Handwritten] Signed: WILSHAUS

[Handwritten] 2.z.d.A. [for the files]

[Initial] W [Wilshaus]

PARTIAL TRANSLATION OF DOCUMENT NIK–13889 PROSECUTION EXHIBIT 1080

CORRESPONDENCE OF THE KRUPP PLANT POLICE, JANUARY TO JUNE 1944, CONCERNING THE PUNISHMENT OF FOREIGN WORKERS*

Fried. Krupp A.G., Essen

Plant Police, 3 June 1944
Reference: Lo [Lorenz] 22311
Concerning— Case—

Through
1. Mr. von Buelow
2. Railroad Service

To Office of Employees' Affairs

The Polish civilian worker Wladislaus Cichocki, factory No. 080442 (railroad service), born 27 September 1916 in Leningrad, living in Essen, camp Joseph Hommer Weg, was taken into custody by the authorities. The door pass is on the way to the firm.

C. [Cichocki] was arrested for malicious political acts. Concentration camp is requested.

[Initialed] Lo[Lorenz]

[Handwritten] Buchenwald concentration camp

---

6 January 1944

The Italian worker Alvaro Tosi, factory No. 171957 (Pb I [tank construction])

1. Born 24 January 1910 in Fano, Italy, home address Toulon-Var (France), living in camp School in Neerfeld, is taken into protective custody. Concentration camp is requested.

* This document contained a number of cases. Most of the memoranda were signed by Josef Lorenz, a member of the investigation section of Krupp's plant police. See the extracts from Lorenz' testimony reproduced below in section VIII C 4.

Lo[Lorenz]

[Handwritten] Concentration camp inflicted

---

3 June 1944

The Italian civilian worker Antonio Molinari, factory No. 680-187 (Electric Steel Works, Borbeck), born 21 April 1913 in Venice, was arrested for refusing to work. Concentration camp is requested.

[Handwritten] For anti-social behavior—concentration camp

[Initialed] Lo[Lorenz]

TRANSLATION OF DOCUMENT NIK-13090
PROSECUTION EXHIBIT 1588

KRUPP INTEROFFICE MEMORANDA TO AND FROM DEFENDANT VON BUELOW, SEPTEMBER 1944, CONCERNING THE SUPPLY OF TRUNCHEONS TO KRUPP'S MARTIN (OPEN HEARTH) PLANT 7

Fried. Krupp, Essen — Martin Plant 7, 21 September 1944 (Office and letter No.)

To — Concerns — Action

[crossed out] Plant Police

[To] Mr. von Buelow [Handwritten]

We still need urgently 10 leather truncheons or similar weapons for clubbing for our shock squads. As we have learned you still have such items in store and we beg to hand over the requested 10 pieces to the messenger.

[Initialed] W[Wilshaus] 25 Sep

[Signed] LINDER

[Handwritten] For discussion with Mr. Wilshaus. Do we still have any weapons of the blackjack type?

25 September 1944 [Signed] VON BUELOW

[typewritten] To Mr. von Buelow

I can supply the 10 leather truncheons or steel birches.

[Signed] WILSHAUS

W. D., 27 September 1944

[Stamp] M.W. 7, 2 October 1944

[Remainder of document handwritten]

Mr. Goldbach

29 September 1944

To Mr. Linder (Martin Plant 7)

To be picked up from plant police (Main Administration Building) by reliable messenger against receipt. Hold in safekeep-

ing, so that the truncheons do not get into wrong hands. EWS* II is to be instructed.

[Signed] VON BUELOW

Noted on the index card.
4 October 1944
[Initial illegible]
[Marginal note] Received 10 steel truncheons
970511 [Signed] SIEBERT
4 October 1944

TRANSLATION OF DOCUMENT NIK-13887
PROSECUTION EXHIBIT 1079

THREE LETTERS FROM KRUPP'S PLANT POLICE TO KRUPP'S OFFICE OF EMPLOYEES' AFFAIRS, 16 JUNE 1943, 15 MAY 1944, 12 JANUARY 1945, CONCERNING PUNISHMENT OF EASTERN WORKERS

[Stamp]
Foundry Essen
Repair shop 6
16 June 1943

Fried. Krupp Incorporated Essen
B.f.A.
Subject: Loafing of the Pole 990573
Boguslav Szarawarski, camp Pape
born 24 March 1924.

S. has been sent to a labor education camp for 56 days on 18 September 1943. Day of release 13 November 1943.

LO[LORENZ]

The above-mentioned Pole was sent from Krawa to R.W. 6 on 9 May 1943. He was absent from work since then on the following days: 18–22, 26, 28 May and 1, 5–8, 12, 15 June 1943.

According to our information S. has been reported frequently to the Krawa as a loafer.

We request to take further steps that S. comes to work regularly.

[Signatures Illegible]
[Stamp]
Vertrauensrat
of
Fried. Krupp Incorporated
Cast Steel Works

---

* Erweiterter Werkschutz (plant police) including its auxiliaries such as the Werkschar (plant squad) of the DAF (German Labor Front).

Fried. Krupp Incorporated Essen Plant Police 15 May 1944
Lo[Lorenz] 22311

Through
1. Mr. v. Buelow
2. Chemical Laboratory

To B.f.A.

The eastern worker Josef Schulz, factory No. 147021 (chemical laboratory) born on 26 June 1925 in Zhitomir, residing in camp Lintorf, was apprehended on account of loitering.

Sch. was arrested by 7 K. Mr. Sprankel. He did not report for work on the following days: March: 18–20, and 27 March till 4 April 1944. 27 April till 3 May 1944. May—has not come to work since 7 May 1944.

[Handwritten] has not appeared at work anymore.

12 February 1945 Lo[Lorenz]

Plant Police, 12 January 1945
Lo[Lorenz]

Through Widia to B.f.A.

The eastern worker Eugenius Serpuschnitin, factory No. 822-055 (Widia), born on 31 March 1928, in Rostov, camp Intzeschule, was taken into custody by the authorities on the 12th instant.

S. was arrested by the Department Aurich, Mr. Schmidt, on account of his behavior hostile to the state.

[With red pencil handwritten note] K.Z. [concentration camp]
Lo[Lorenz]

TRANSLATION OF DOCUMENT NIK–13885
PROSECUTION EXHIBIT 1081

SEVEN REPORTS FROM KRUPP'S CAMP ADMINISTRATION TO THE GESTAPO, FROM 27 OCTOBER 1943 TO 13 FEBRUARY 1945, CONCERNING PUNISHMENT OF FOREIGN WORKERS

27 October 1943, Lo[Lorenz]

To the Gestapo [Secret State Police]
State Police Regional Headquarters Duesseldorf,
Branch Office, Essen

Subject: Bringing back of the Eastern female workers
1. Pascha Sulim, factory No. 759125 and
2. Wera Sulim, factory No. 759126.

The above are employed in the sheet-metal bending shop and have been fugitives since 14 September 1943. According to information of the plant, the two eastern female workers are

said to be employed as domestic servants in the inn Castrop in Essen, Liebigstrasse.

As the employment of these eastern female workers cannot be dispensed with, it is requested that they be brought back.
[Handwritten] Cannot be found there.

State Police
10 January 1944

Plant Police

23 October 1943
[Stamp] Plant Police
26 October 1943

Subject: Eastern female workers.
Reference: Our communication of 14 September 1943

According to information of the sheet-metal bending shop, the eastern female workers,

Pascha Sulim, factory No. 759125
Wera Sulim, factory No. 759126

who were reported to be fugitives in our above-mentioned letter, are said to be working as domestic servants in the inn Castrop Essen-West, Liebigstrasse.

As the plant attaches great importance to the above eastern female workers being returned as soon as possible, we requested you to arrange the necessary.

Please let us know what you have arranged.

[Signed] GOTTLOB

---

19 July 1944
Lo. 1113

To the Gestapo [Secret State Police]
State Police Regional Headquarters, Duesseldorf,
Branch Office, Essen

Subject: Breach of labor contract of the eastern worker Wassili Myckno, born 21 January 1920 at Dnepropetrovsk, last living in camp Voerde, employed in Armored Plate Rolling Mill I/II, under factory No. 123228.

The above was on 1 June 1944 assigned by Labor Allocation J to the brick workers Leimgard. In spite of repeated summonses to do so, he has not taken up work in the brick works, with the remark that he would not work there, he would come back to the Armored Plate Rolling Mill, even if we were having him fetched by the police. On 8 July 1944 the report was that M. [Myckno] still continued to work at the A.P.R. Mill. It was requested that he should be taken to the brick works by the plant police. When this measure was going to be carried out by the plant police, M. had escaped.

Information and further directions are requested [Handwritten] 2. After 1 month.

[Handwritten] Signed: WILSHAUS

Fried. Krupp

Essen, 12 February 1945
Lo. Journal

To the Gestapo
Gestapo Regional Headquarters Duesseldorf
Branch Office, Essen

Subject: Serious disloyal [grobpflichtwidrig] behavior of the Polish civilian worker Adolf Maslinski, born in Lublin 28 June 1924, camp Joseph Hommer Weg, employed in the Repair Works 2 (F.No. 402072)

The above was already warned by the plant police on 31 June 1945 on account of unauthorized leave. Today, toward 9 a.m., the works reported that M. [Maslinski] had disappeared again. M. is described by the works (works manager, Greiff) as one of the worst shirkers. His total number of working hours during December amount to 92. The records for January are at the office for labor matters for accounting purposes, but he has been away for at least 4 days. Apart from this M. is very unpunctual in arriving at work.

M. was sent to the special camp Neerfeldschule.

It is requested that commitment certificate [Einweisungsschein] be sent.

[Handwritten] 56 days, AEL [labor education camp] till 9 April 1945

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10 February 1945, Lo. Journal

To the Gestapo [Secret State Police]
State Police Regional Headquarters Duesseldorf,
Branch Office Essen

Subject: Serious disloyal behavior of the Italian civilian worker Antonie Ricci, born 31 October 1915 in Naples, camp Lintorf, employed under Factory No. 360383 at the transportation department of the firm of Krupp

This Italian worked during December 1944 a total of 18 hours and during January 1945, 53 hours. In camp Dorsten he was caught having used a stolen stamp on his food card. This manipulation enabled him to enjoy the food without working. He maintains he has received the stamp from an Italian who has in the meantime been transferred to Bremen.

The strongest measures should be taken against R.[Ricci].

He was today sent to the special camp Neerfeldschule for the time being.

[Handwritten] 1, after 1 month—56 days; plant, office for employees' affairs and Oberlagerfuehrer informed.

---

23 October 1944
Lo. Journal 1422

To the Gestapo
State Police Regional Headquarters Duesseldorf,
Branch Office Essen

Subject: Serious disloyal behavior of the Belgian civilian worker Fernand Maquigny, born 6 April 1924, Camp Lintorf, employed under F.No. 040741 in the foundry 5/7

The above was found in hiding on 22d instant towards 0.30 [sic] by the watchman of the camp Lueschershofstrasse in a bunker at Haus Heck. M. [Maquigny] admitted that he had not worked since the 19th instant. With M. it is a question of a Belgian who came with the transport on 18 March 1944 and who had been put up in special camp Dechenschule till 18 June 1944. M. was taken to police station 9a for arrest.

[Handwritten] Signed: WILSHAUS

[Handwritten] 2. After 14 days. M. was discharged from the prison barrack on 23 October 1944.

To the Gestapo

13 February 1945
Lo. Journal

State Police Regional Headquarters Duesseldorf,
Branch Office Essen

Subject: Serious disloyal behavior of the Polish civilian worker Eugen Malinowski, born 11 July 1924 in Warsaw, camp Joseph Hommer Weg, employed under factory No. 891764 in Machine Shop 8

According to a report of the camp the above has not worked since 15 January 1945—pair of M.'s [Malinowski's] working boots are in the shoe repair shop, but cannot be finished on account of lack of material. When M.'s cupboard was inspected, 2 pairs of shoes were found. Furthermore, 2 very good sweaters of German manufacture were found, and M. made questionable statements regarding their origin.

When being taken to the plant police M. attempted to escape. It is requested that he be sent to the special camp Neerfeldschule for the average length of time.

M. was today sent to Neerfeldschule for the time being.

56 days Neerfeldschule. Plant, office for employees' affairs, and Oberlagerfuehrer have been informed.

17 February 1945

LO. [LORENZ]

TRANSLATION OF DOCUMENT NIK–12326
PROSECUTION EXHIBIT 1543[1]

LETTER FROM DEFENDANT KORSCHAN TO DEFENDANT HOUDREMONT, 22 AUGUST 1944, CONCERNING KORSCHAN'S VISIT TO THE FUENFTEICHEN[2] CONCENTRATION CAMP AND RELATED MATTERS

Breslau, 22 August 1944
[Stamp] Houdremont Secretariat
No. 6142
received: 28 August

To Professor Houdremont

In accordance with your wish I have visited the management of the Fuenfteichen concentration camp and obtained information on the differences between the plant management of the Bertha Works and the camp management. I have set out the main points in the attached file note. Last week, before his meeting with you in Berlin, Mr. Siekmann promised the camp management that your wish would be complied with. He thinks, however, that various difficulties should be overcome beforehand, and that consequently compliance will require a certain amount of time.

I consider reports from the camp managements to their superior offices to be dangerous, particularly since I was able to deduce from subsequent conversations that the two Hauptsturmfuehrer believe that they have not a proper understanding with nor the full support of the works management. For example, complaints to the effect that everything about the Bertha Works was much too bureaucratic, that difficulties were overestimated and that there was no one there who could get anything done. As proof of the latter he stated that, for example, a coffee boiler in hall 4 which was broken about 6 weeks previously had at present still not been repaired in spite of many reports to the responsible offices. Considering the great heat this was very regrettable because the concentration camp prisoners, owing to the lack of coffee, drank cold, and at times, bad water as a result of which the amount of sickness was increasing. Further they cited the example of a hole in the wall of the concentration camp lavatory in hall 5 through which a prisoner had broken out some time previously and which, in spite of having been reported immediately, has up to the present still not been repaired. During the nightly

[1] This document was originally identified before Commission II of the Tribunal as Franke Exhibit 1 during cross-examination of the defense witness Franke. Later the exhibit was marked within the usual prosecution exhibit series as Prosecution Exhibit 1543.

[2] This was a large concentration camp from which concentration camp inmates were sent out to numerous industrial firms, including the Krupp firm.

tours of inspection made by the SS Hauptsturmfuehrer the supervisors have been found asleep on repeated occasions. The doors of halls stood open, so that the danger of escape was very great. It was also mentioned in this connection that an order had been issued by the works management to their personnel about a week previously that they should pass through the doors of the halls without headgear so that the inspecting personnel would be able to recognize concentration camp prisoners who have large parts of their heads shaved.

This instruction is not being complied with on the grounds that "the German members of the complement did not need to raise their hat to the inspecting personnel."

It was also observed by the concentration camp headquarters that, to their regret, there was no personal connection with the plant managers. For the opening of the administration and supply building of the camp management and for the guards a kind of entertainment evening with KdF [strength-through-joy] performances was arranged, for which the executives of the machine plants of the Bertha Works had been sent invitations, but nobody turned up. It had further been arranged, at Mr. Girod's sick bed, that an inspection of the concentration camp by the executives of the Bertha Works was to take place on a certain date (8 August 1944), but the only person who turned up was Mr. Mellentin with some of the staff of the office for labor allocation and the workers relations office, but not one single member of the plant staff made an appearance.

I have given you such a detailed description because you asked me to find out what was the matter. I have informed Mr. Siekmann of the contents of my conversation with the two Hauptsturmfuehrer.

[Signed] KORSCHAN

2. TESTIMONY OF PROSECUTION WITNESSES JOSEF DAHM AND FRITZ FELL

EXTRACTS FROM THE TESTIMONY OF PROSECUTION WITNESS JOSEF DAHM*

DIRECT EXAMINATION

MR. RAGLAND: Witness, will you state your full name and present residence?

WITNESS DAHM: Josef Dahm, Essen-Borbeck, Borbeckerstrasse 130.

* Complete testimony is recorded in the mimeographed transcript, 3 and 4 February 1948, pp. 3080–3108. Dahm also signed a joint affidavit (D-382, Pros. Ex. 864, not reproduced herein) with two other Krupp workers concerning the matters taken up in his testimony.

Q. During what years did you work for the Krupp company?

A. From 20 December 1939 until 14 February 1947.

JUDGE WILKINS: You might pull his chair up a little bit closer.

MR. RAGLAND: Were you ever in the guardroom of the camp for eastern workers?

WITNESS DAHM: Yes.

Q. Did you see a steel cabinet, a cupboard in that guardroom?

A. Yes.

Q. Did the camp have any special name?

A. No.

Q. In what plant did the eastern workers from the camp work?

A. In tank construction IV.

JUDGE ANDERSON: I didn't catch that.

MR. RAGLAND: Tank construction IV.

With respect to the steel cabinet, will you describe that cabinet?

WITNESS DAHM: The steel cupboard?

Q. That is right.

A. It had a wall at the back and on both sides and on the top it had a lid, or rather, a ceiling, and in front it had two air holes.

Q. How high, what was the height of the cupboard?

A. About 1.50 to 1.60 meters.

Q. What was its width and its length?

A. It had two shelves, each one was about 50 to 60 cm. long and 50 to 60 cm. long, or deep.

Q. Did the cupboard have a partition in the center of it?

A. Yes.

Q. Witness, I desire to show you three photostatic copies of pictures for identification which are identified as D–382A, D–382B and D–382C.* I think the Tribunal will find these photostats in document book 37, immediately following page 40 of the English. I may be mistaken on the page, Your Honor.

JUDGE ANDERSON: That is correct.

MR. RAGLAND: Page 58 of the German. Witness, will you look at these pictures, and after having looked at them, can you tell me what they represent?

WITNESS DAHM: They show the cupboard and the camp.

Q. Can you identify this as the cupboard which was in the guardroom at the camp?

A. Yes.

Q. Are there any particular identifying marks on the cupboard?

A. There were air holes on both sides of the door.

Q. Can you tell me what are the protrusions at the right hand side, as appear from the picture D–382B?

* The quality of the reproductions of the photographs available is such that for technical reasons they could not be properly reproduced herein.

A. These are hinges by which the doors are fixed.

Q. Was there any way in which the cupboard could be locked?

A. Yes.

Q. Will you describe the way in which it could be locked?

A. In front there are two bolts in the door, and one could lock these bolts and could thus lock the cupboard.

Q. Did you ever see anyone put in the steel cabinet or cupboard?

A. Yes.*

Q. What was the date of this occurrence?

A. From the 31st of December to the 1st of January, 1944 to 1945.

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Q. Witness, I understand that you have seen a person or persons put in the steel cupboard and you saw such an occurrence on New Year's Eve 1944, in the morning of January 1945. Will you describe the circumstances surrounding this event? Witness, may I suggest that you tell the Tribunal concerning this occurrence?

A. In the night of 1944–1945—that is New Year's Eve—I was in tank construction IV and I was on air raid duty. I saw how three eastern workers were put into the cupboard by the Unterfuehrer Gerlach. The eastern workers had had some kind of festivity, and at about 1 o'clock in the morning Unterfuehrer Gerlach said they must stop, and all of them went home, and everyone went to bed. Around about 2 o'clock he made an inspection of the camp, and he found three eastern workers with the female eastern workers, and he took them to the guard room and beat them up with a rubber truncheon.

Q. Let me interrupt you a moment. Were they the female workers who were beaten, or were they the male eastern workers?

A. No, the three male eastern workers whom he took to the guard room. Then he put one into the left corner of the cabinet and two into the right side, and then he locked the door. The men—

Q. Let me interrupt—

A. —on the right side were beginning to moan—

Q. Before you finish the story may I inquire whether these eastern workers—were any beatings administered to them before they were put in the cupboard?

A. Yes.

JUDGE ANDERSON: Who administered the beatings? Did the

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* Willi Loewenkamp, a defense affiant, declared that this cupboard was not used for confining eastern workers. His affidavit (Lehmann 565, Def. Ex. 2275) is reproduced below in section VIII C 4.

witness answer that question? Who did the beatings of the eastern workers?

WITNESS DAHM: Unterfuehrer Gerlach beat the eastern workers.

JUDGE ANDERSON: Who did he say?

MR. RAGLAND: Gerlach, G-e-r-l-a-c-h, Your Honor.

JUDGE ANDERSON: What was his position?

MR. RAGLAND: Witness, will you tell the Court who Gerlach was?

WITNESS DAHM: Gerlach was Unterfuehrer—that is, an assistant camp leader.

Q. Was he a Krupp employee?

A. Yes, he was employed by Krupp as a worker. Before that he had been a locksmith, a fitter, and then he became camp leader.

Q. Do you know how long he had been with the Krupp company?

A. I knew him since 1940.

Q. Do you know with what he beat the eastern workers?

A. With a rubber truncheon.

Q. Did you see him do the beating?

A. Yes.

Q. Where did those beatings take place?

A. In the guard room of the camp.

Q. As an air raid warden, were you in the guard room at the time?

A. Yes.

* * * * * * *

Q. Was anything done to the workers while they were in the cupboard?

A. No.

Q. Did the workers in the cupboard make any outcry?

A. No.

Q. Did they make any sound at all?

A. When the two were together, yes.

Q. Was any water thrown on the workers while they were in the cupboard?

A. Yes.

Q. How was this done?

A. Gerlach took a pail of water and emptied it on the top of the cupboard and the water dripped into the cupboard.

Q. Did you protest about the workers being placed in the cupboard?

A. No.

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Q. Did you say anything to Gerlach?

A. Afterward I told him he ought to take one out. He took one out.

Q. He took one out at your request?

A. Yes.

Q. The one worker who was taken out of the cupboard after approximately one hour—what happened to that worker?

A. He was taken to the air raid command post.

Q. Do you know what became of him after he was taken to the command post?

A. No.

Q. Do you know how long the other two workers remained in the cupboard?

A. The other two remained in the cupboard so long that when I went home at 6 o'clock in the morning they were still there.

CROSS-EXAMINATION

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DR. WOLF: (counsel for defendant Lehmann): You said Gerlach was the deputy camp commander?

WITNESS DAHM: Yes.

Q. And who was the camp commander?

A. Loewenkamp.

Q. Were there other responsible executives there?

A. There was assistant camp commander [Unterlagerfuehrer], Hoefer.

Q. Hoefer. Do you know who paid these people?

A. No.

Q. I now return to the incident on the New Year's Eve of 1944–1945 which you described yesterday in the direct examination. You yourself were on air raid duty on that night?

A. Yes.

Q. What did this duty consist of?

A. I had to watch out for incendiaries. If there was a fire, the air raid protection people had to go there, and we had to extinguish the fire.

* * * * * * *

Q. Where did you stay in the camp on that night?

A. I was in the guardroom.

Q. That is the room of the camp commander?

A. Yes.

Q. Please tell me in what part of the room, looking from the door, the closet was?

A. Coming in through the door the closet was on the right side.

Q. And where did you sit in that room?

A. I sat a little to the left side.

Q. Then you were able to see this closet or cabinet?

A. Yes.

Q. Do you know how this closet was put into the room?

A. No.

Q. Do you know when that happened?

A. No, I never remember hearing anything about this closet.

Q. You were present when these people were locked into this closet?

A. Yes.

Q. Before the eastern workers were locked into the closet, was this closet empty or were there other objects in it?

A. The closet was empty.

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Q. You said that this closet in the upper compartment had small openings?

A. Yes, because deputy camp commander Gerlach poured a pot of water into it and the water ran into the closet.

Q. Did Gerlach pour this water through the holes?

A. Yes, from the top.

Q. I seem to remember that you said yesterday that he poured the water on top of the closet and it ran in there?

A. Yes.

Q. Were there any other openings on top of the closet?

A. Yes, on top of the closet, that is where he poured the water in, and the water ran in.

Q. If this is a metal closet, a steel plate closet, a safe, the water could only have run in if there was an opening on top?

A. Yes, there must have been an opening on the top because the water ran in.

Q. Did you see these openings?

A. No.

Q. How do you know that the water ran into the closet?

A. When deputy camp commander Gerlach took out one of the men, that man was all wet.

* * * * * * *

Q. What kind of an impression did this incident make on you, were you disgusted and upset about it?

A. Yes.

Q. You also said that at your request at least one of the Russians was taken out?

A. Yes.

Q. Did you make any report about this incident?

A. No.

Q. Why not?

A. Because I was afraid that if I said anything Gerlach would have done something to me.

Q. But Gerlach was only the deputy camp commander of the foreign workers' camp?

A. Yes.

Q. You, as an employee of the enterprise, did he have any supervision over you?

A. No.

Q. What could he have done to you?

A. He could have reported me, and I would have been taken away.

Q. Did you ever receive any orders from Krupp, or did you know of any orders of the firm of Krupp, according to which any mistreatment of foreign workers or eastern workers was strictly prohibited?

A. Yes.

Q. Then why didn't you make a report?

A. Because I was afraid. I kept it to myself and only after the occupation I talked about this incident.

Q. And until the occupying powers came, you kept it to yourself?

A. Yes, I did.

Q. Did you ever hear about similar incidents from your fellow workers?

A. No.

Q. Which only relate to this cabinet?

A. A comrade, Fell, talked to me about it after the celebration.

Q. But not then?

A. No, not then.

Q. Did Fell also work in tank construction shop IV?

A. Yes.

Q. And at that time you only knew of this one incident which you witnessed?

A. Yes.

Q. And nothing else?

A. No, nothing else.

Q. Then you don't know anything about the fact that Germans too were locked into this cabinet?

A. No.

* * * * * * *

Q. Do you say that the whole thing started when the plant councilor made an inquiry?

A. It was not the plant council who started it; we went to the plant council.

Q. Did you go voluntarily?

A. Yes.

Q. And were you invited?

A. No, I went with Hoefer on my own initiative.

Q. Did you intend to do this even without Hoefer? Would you have gone alone?

A. No.

Q. Why not?

A. Because I would have kept it to myself. But since I had told Hoefer about it he said I should go with him. They would only have asked me to come later, so I went with Hoefer right away.

Q. And you had told Hoefer about this?

A. Yes.

Q. Did you answer my question? Now, Essen was occupied by the British in June?

A. But there was an American officer there in the building of the firm of Krupp.

Q. Then if I understand you correctly, you described the incident of New Year's Eve to Hoefer in the summer of 1945. Did Hoefer tell you that he himself also witnessed such an incident?

A. No.

Q. What happened to Gerlach?

A. He disappeared.

Q. Don't you know what happened to him?

A. No.

Q. One last question. Since you worked in the tank construction shop IV for some time, please tell the Court whether the incident on New Year's Eve according to your experience was an exceptional case of mistreatment of foreign workers or whether you saw such incidents quite often?

A. It was an exceptional case. I never witnessed another one like it.

DR. WOLF: That is all.

* * * * * * *

JUDGE WILKINS, Presiding: Judge Anderson, do you have a question?

JUDGE ANDERSON: Yes.

EXAMINATION BY THE COURT

JUDGE ANDERSON: Were you employed at the plant in 1942 and 1943?

WITNESS DAHM: Yes, I was in the tank construction shop from 1942–1943, which was located in the Amalienstrasse, and 1944—at the end of 1944, in November—I was transferred to shop 4, gate 91.

Q. I believe you say that this incident of these three prisoners being locked in the cabinet was the only incident of mistreatment that you personally witnessed?

A. Yes.

Q. Did you know—did you hear of any other mistreatment of these prisoners of war?

A. No.

JUDGE WILKINS, Presiding: Any questions, Judge Daly? Witness, you may be excused.

EXTRACTS FROM THE TESTIMONY OF PROSECUTION WITNESS FRITZ FELL*

DIRECT EXAMINATION

MR. RAGLAND: Mr. Witness, will you state your full name?

WITNESS FELL: Fritz Fell, F-e-l-l, Essen-Bergeborbeck, Lichtenhorst 24.

Q. How long did you work for the Krupp company? During what years?

A. From 1939 until now.

Q. What was your job with the Krupp company in the fall of 1944 and the early part of 1945?

A. I worked at a telephone in the air raid service.

Q. As such an employee, were you located in a building across from a camp for foreign workers?

A. Yes.

Q. What type of building was this in which you were located? Was it an office building or a plant?

A. It was the chief foreman's office.

Q. And what was the distance from this office to the camp for foreign workers?

A. Eight to ten meters, that is, about 30 feet.

Q. Do you know whether the camp for the foreign workers included a guardroom?

A. Yes.

Q. Do you know whether there was a steel cupboard in that guardroom?

A. Yes.

Q. Were you ever in the guardroom yourself and did you see the steel cupboard at that time?

A. Yes.

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* Complete testimony is recorded in the mimeographed transcript, 4 February 1948, pp. 3108 to 3136.

Q. Did you ever see anyone put in the steel cupboard?

A. Yes.

Q. Do you know the approximate date of this occurrence?

A. It was in the summer of 1944.

Q. Where were you at the time of this occurrence?

A. As usual, I was sitting at the switchboard in the foreman's office, and I saw through this office that this female eastern worker, because she returned too late from leave, was locked into the cupboard for this offense.

Q. Before you describe further the actual event, may I ask you as to the time of the day or night of this occurrence?

A. It was at night, between 10 and 11 o'clock, perhaps 10:15.

Q. If it was at night, after 10 o'clock, how were you able to see into the guardroom?

A. I could see the whole hut, I could see all the huts, and diagonally across I could look into the room.

Q. Was the door to the guardroom open at this time?

A. Yes, the door was open, or else I wouldn't have been able to see the incident.

Q. Was there a light on in the guardroom?

A. Yes, it was lighted in spite of the fact that it was so bright that we could have seen even without lights.

Q. Now, will you tell us more definitely as to who was put in the cupboard, and the circumstances with regard to that event?

A. It was a female eastern worker. She had been on leave and because she had overstayed her leave several times, she was locked into this cupboard in spite of the fact that she was pregnant—she was in the seventh month of pregnancy.

Q. Do you know who put the female worker into the cupboard?

A. It was Gerlach, the deputy camp commander.

Q. Do you know how long she stayed in the cupboard?

A. No.

Q. Did you ever talk with any of the other workers concerning this incident?

A. I don't remember.

Q. Did you talk generally or on occasion with the eastern workers who lived at the camp or who worked at the tank construction plant?

A. Yes.

Q. Did they ever refer to the steel cupboard and assign to it any name?

A. We used the name "cage" for this cupboard.

Q. Was that a term used by the eastern workers?

A. No.

Q. Who used the term "cage" with respect to the cupboard?

A. I coined the expression myself.

Q. Do you know whether any other people ever used that term to describe it?

A. No.

* * * * * * *

Q. Do you know what time these female workers had to arise in the morning?

A. If they had to start work at 6 o'clock in the morning, I think they had to get up at 5 o'clock in the morning. There was a time before Gerlach, when we started at 7 o'clock, but the factory was damaged then and Gerlach started a new system and awakened these girls at 4 o'clock in the morning, and if one of them hadn't got up, by the time he had gone through the last room, he would pour a bucket of water into the bed of any person who hadn't gotten up, although it was winter.

Q. Do you know whether this ever happened? Do you have any knowledge of Gerlach actually pouring water on any female eastern worker in order to awaken her or get her up in the morning?

A. If the female eastern workers did not arise at once, because they only started work at 7 o'clock in the morning and yet they were awakened at 4 o'clock, he would pour a bucket of water into their beds.

Q. Yes. Do you know what nationality of workers worked in the Panzer construction plant?

A. There were Italians, Dutchmen, Belgians, Frenchmen, these female eastern workers, and Russian prisoners of war.

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CROSS-EXAMINATION

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DR. WOLF (counsel for defendant Lehmann): Please tell me how you could recognize from this distance that the female eastern worker was in the seventh month of pregnancy?

WITNESS FELL: Because her fellow worker, a certain Herti Scartipa, told me that. And it could be noticed pretty easily.

Q. This fellow worker, did she tell you before the incident or after the incident?

A. That the eastern worker was in the seventh month, she had told me before.

Q. How do you know that this female eastern worker had overstayed her leave several times?

A. Because on that evening Gerlach, who had a pretty loud voice anyway, shouted: "I have waited for that for a long time—for you to overstay your leave"—or something like that.

Q. Were you on night shift, or why were you in the foreman's office?

A. My switchboard service started at 6 o'clock at night and ended at 6 o'clock in the morning.

Q. That is why you were a witness to the other incident which you described when Gerlach at 4 o'clock in the morning got these female eastern workers out of bed by pouring cold water on them?

A. Yes.

Q. Was that in the summer or in the winter?

A. He did that at the time when the plant had been damaged; as we were to observe the blackout as much as possible, working hours were to start at 7 o'clock in the morning; but he made them get up at 4 o'clock in the morning. And if they didn't get up at once he poured water on them, a whole bucket full.

Q. You said that the working hours at the time when this incident happened began at 7 o'clock in the morning?

A. Yes.

Q. Whereas previously they started at 6 o'clock?

A. Yes.

Q. May I conclude from that that it was winter?

A. Yes.

Q. Please tell me how you could see into the hut at 4 o'clock in the morning when it was still dark?

A. Well, I couldn't exactly look into the huts but we heard, and I saw, how Gerlach took the bucket of water, carried it into the hut, and shortly after or at the same moment I heard the screaming in the barracks.

Q. Then it is a conclusion you draw. Did you hear the water being poured—or from what do you conclude it?

A. The girls left the hut and said, this one, and that one, and that one had a bucket of water poured on her because she didn't get up.

Q. Then the girls told it to you?

A. Yes. But he confirmed it to me, Gerlach.

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Q. Did you approve this mistreatment which you witnessed or were you indignant about it?

A. I certainly did not approve it.

Q. Did you make any report to anyone about it?

A. No.

Q. Why not?

A. That would have meant my arrest at the very least.

Q. And who would have arrested you for that?

A. Do you think that the [deputy] camp commander Gerlach would have taken it lying down?

Q. Did [deputy] camp commander Gerlach have any authority over you—disciplinary authority?

A. No, he didn't. But in spite of that I would not have dared to do anything about it. Gerlach was a brutal person not only toward the prisoners but also toward the Germans in every respect.

Q. Do you know of cases where Germans were locked into the cupboard?

A. No.

Q. Did you hear otherwise of such incidents?

A. No.

Q. The incident you witnessed yourself was the only one of its kind until Americans marched into your town?

A. Yes.

Q. Before the time mentioned by me did you ever talk with anyone about this incident—with fellow workers, with friends, or at home among your family circle?

A. Yes, I think so.

Q. With whom?

A. I probably told it to my present wife.

Q. What about your fellow workers?

A. No, I didn't dare, really.

Q. And if you state today that you coined the term "cage" for this cupboard, then this expression only refers to a time when after the American troops occupied your city?

A. Cage? No. I saw the female eastern worker locked into the cupboard and I myself said "this is a cage." I don't know the reason exactly. Well, because an animal—a bird—you lock into a cage. At least in such a cage, or something similar.

Q. One more question, Witness. Do you know that by virtue of many express instructions by the plant management of Krupp it was strictly prohibited to mistreat foreign workers including eastern workers?

A. I heard of it from fellow workers who talked about it if one or the other of the workers was beaten, but I didn't see any posters, or publications, or bulletins about it.

Q. Besides the two incidents of mistreatment described by you—the steel cupboard and this somewhat stormy awakening of the eastern workers—can you tell us of any other cases of mistreatment witnessed by you?

A. There was a Pole who stayed away from work for 2 or 3 days because he couldn't walk in his clogs because they were too

torn. He had gotten sores on his feet. He said to his foreman: "Sir, I couldn't come to work. Give me a certificate so that I can get other shoes." And the foreman hit this worker in the chest and in the face with his fist. This eastern worker—no, I mean the Pole—later on volunteered for the German armed forces in order to receive better food and better treatment.

Q. Was he accepted into the armed forces?

A. Yes, he must have been but I cannot give you any details about it because I never saw him again.

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3. AFFIDAVITS OF DEFENDANTS IHN, VON BUELOW, AND KUPKE

TRANSLATION OF DOCUMENT NIK-10755
PROSECUTION EXHIBIT 971

AFFIDAVIT OF DEFENDANT IHN, 15 AUGUST 1947, CONCERNING EMPLOYMENT OF EASTERN WORKERS BY THE KRUPP FIRM

Affidavit

I, Max Ihn, at present in Nuernberg, having been duly warned that false statements on my part will render me liable to punishment, herewith state the following on oath, voluntarily and without coercion.

I should like to make the following statement with regard to the treatment, billeting, and feeding of the Russians and Ukrainians, the so-called eastern workers, who were employed by the firm of Krupp in Essen as from the end of 1941.

This concerns a summary of regulations issued by the government and passed on to the firm, which were decisive for the lives of these people.

All points, given here in detail, show the differentiation made in the treatment of the eastern workers and the German workers who did the same kind of job.

1. *Payment.* The basic hourly wage of the eastern workers was the same as that of the German workers. German workers were paid an additional 25 percent per hour for working overtime. Eastern workers working overtime were not given this additional 25 percent, but only the basic hourly rate of pay. German workers were granted an additional 10 percent per hour for night work. Eastern workers working on night shift were not granted this additional 10 percent, but received merely the basic rate of pay.

German workers were granted an additional 50 percent per

hour for Sunday work. Eastern workers received no extra pay for Sunday work but merely the basic rate of pay.

For work on holidays, such as Christmas, German workers were granted a 100 percent additional pay. Eastern workers did not receive this 100 percent extra pay for work on certain holidays but merely their basic pay rate.

Statements of account for wages earned, given weekly to German workers, were not given to eastern workers. RM 1.50 per day for food and billets was deducted from the Russians' wages.

2. *Food.* German workers, if they came under the group of so-called long, or night shift workers received additional food rations. Eastern workers, who worked the same long, or night shifts as the German workers, received no additional food rations although their basic food rations were already smaller. German workers doing heavy or very heavy work were given extra food rations. If eastern workers, too, did work which came into this category, special application had to be made in which it had to be pointed out that the worker in question was a Soviet civilian worker. Additional rations granted to these eastern workers were considerably smaller than those of German workers.

The food rations for Russian workers were so low that especially in 1941–1942 it was almost impossible to put these people to work. Only after many groups of industry had protested, the food rations were at last gradually increased at the beginning of 1943.

3. *Legal position regarding employment.* German regulations with regard to legal protection and rights did not affect the eastern workers and Russian prisoners of war, unless this was specially specified. Neither were they granted any allowances such as separation, and billeting allowances, an allowance for children, or holiday and home leave allowances.

From the time of the arrival of the Russians toward the end of 1941 until about 1943 they were forbidden to write or receive letters. Later this regulation was rescinded.

During the same period they had to be kept behind barbed wire. From the end of 1941 until at least the middle of 1942 they were not allowed to go out at all. From then on they could move about in the streets up to a certain evening hour. As from about 1943, after a visit of Sauckel, the barbed wire was removed from the camps.

I have carefully read each of the 4 pages of this affidavit, have made the necessary corrections in my own handwriting, and countersigned them with my initials, and I declare herewith on

oath that I have, in this statement told the pure truth to the best of my knowledge and belief.

[Signed] MAX IHN

TRANSLATION OF DOCUMENT NIK-12613
PROSECUTION EXHIBIT 865

AFFIDAVIT OF DEFENDANT VON BUELOW, 6 AUGUST 1947, CONCERNING HIS RELATION WITH DEFENDANT KUPKE AND THE ACTIVITIES OF COUNTERINTELLIGENCE AGENTS IN THE KRUPP CONCERN

I, Friedrich von Buelow, at present in Nuernberg, after having been told that I am liable to punishment for giving false testimony, hereby declare on oath, voluntarily and without coercion, the following:

Mr. Kupke in his capacity as "Chief of the Main Camp Administration" was only subordinated to Mr. Ihn. At the same time, however, Mr. Kupke was a counterintelligence agent and as such he had to obey orders coming from me as chief counterintelligence agent. These orders referred to everything pertaining to counterintelligence and security as far as foreigners were concerned. In creating the Main Camp Administration the Gestapo attached much importance to my being included therein. However, in the course of time, they also came to deal directly with Mr. Kupke and in particular took part in camp leader conferences at which I was not present. Reports of these meetings were to be submitted to me subsequently, sometimes also a deputy commander of the plant police took part in these meetings in order to represent the interests of the same [plant police]. Mr. Kupke and I worked together in conditions of complete mutual trust and I must say that I always trusted Mr. Kupke implicitly.

I became military chief counterintelligence agent in September 1939. In June 1943, without my or the firm's having anything to do with it, the Gestapo appointed me also political police chief counterintelligence agent and I was given written documentation of this appointment. Mr. Strattmann who was my deputy as military counterintelligence agent, was, however, not appointed political police chief counterintelligence agent at the same time. As far as I remember, the question of the official appointment of such a deputy remained open until the end.

It may be that later on some other military counterintelligence agents were appointed political police counterintelligence agents, but I don't remember the details. From a practical point of view it would not have meant much anyway.

I have carefully read the 2 (two) pages of this affidavit, have made the necessary corrections in my own hand and countersigned them with my initials and I hereby declare under oath that this affidavit contains the pure truth to the best of my knowledge and belief.

[Signed] FRIEDRICH VON BUELOW

PARTIAL TRANSLATION OF DOCUMENT NIK–11233 PROSECUTION EXHIBIT 1259

EXTRACT FROM AN AFFIDAVIT OF DEFENDANT VON BUELOW, 7 JULY 1947, CONCERNING MEASURES TAKEN FOR DEALING WITH POSSIBLE RIOTS BY FOREIGN WORKERS*

I, Fritz [sic] von Buelow, Nuernberg, after having been warned that I am liable to punishment for making a false statement, state herewith under oath, of my own free will and without coercion, the following:

1. I was not a member of the Vorstand or of the Direktorium (neither ordinary nor deputy member), but only Prokurist until the end of 1943, and since then, department director. The question of the use of concentration camp inmates by the firm of Krupp did not come within my competence, and therefore I am not properly informed on that question except by hearsay. Speaking of concentration camp inmates, I mean only those in the proper sense of the term, not convicts or the inmates of the punitive camp of Dechenschule, who are to be mentioned specially. With regard to the negotiations with Pister I am making a separate statement.

2. When the plan to transfer the fuse production to Auschwitz had already been dealt with, I was aware of it only by hearsay. I know, however, that at the time, there was a plan to set up fuse manufacture within the precincts of the concentration camp Auschwitz and that, therefore, the intention was to use forced laborers from Auschwitz.

* * * * * * *

6. Already in 1942 we were instructed to take precautionary measures, in case riots of foreign workers, which were constantly anticipated, should occur, in order to be able to crush these riots with our own forces. Stress was laid on the fact that in such a critical situation probably not only the police forces in Essen, but also the troops, especially the antiaircraft units in Essen,

* Extracts from this affidavit dealing with the special training or penal camp Dechenschule are reproduced below in section VIII D 3.

would be withdrawn. It was envisaged above all that those riots would coincide with an invasion. In compliance with this general ruling I first of all reinforced the plant police proper by the so-called plant police I, about 80 to 100 men (the number varied), who were issued rifles and pistols. I trained these men, especially on Sundays, in field training, shooting practice, and marching.

Since the riots could also occur in the plants, I organized the so-called reinforced plant police II in the plants. This latter consisted of Krupp workers who were selected by the plant leaders with regard to their suitability for the job. The organization was in connection with the aintiaircraft protection. The proportion of men selected was 5 to every 100 men working in the plants. No arms could be provided for these men in the plants. Besides, there were grave objections to furnishing the plants with weapons, in spite of their urgent request, as the arms could get too easily into the hands of unauthorized people. On instructions from higher quarters, these people were issued leather truncheons made of waste leather. Rigid instructions were given that these truncheons had to be kept carefully locked. Only in emergencies were they to be issued to the men, together with steel helmets and armbands to denote their function. On instructions from higher headquarters, it was later left to the plants to make steel truncheons, as the latter were more suitable weapons. The leather truncheons were made on my orders by the Krupp saddlery. A central production of the steel truncheons was impossible under the existing pressure of work; it was left to the individual plants. The idea of these plant guards was to nip in the bud all possible riots by rapid and vigorous action in spite of their numerical inferiority. The first general ruling regarding the reinforced plant police I and II was issued in the middle of 1943, the second supplementary regulation shortly before the invasion, about May 1944. I think this second regulation contained also the instructions relating to the steel truncheons. (The regulations were based on instructions from higher quarters, military authorities, Gestapo.) I remember very well that at the beginning the instructions on the safekeeping of the leather truncheons were kept in all instances. In many plants I checked on this measure myself. Later, in 1944, when the heavy air raid damage led to great disorganization, it happened that due to the destruction of the offices, and especially of the storage places for these leather truncheons, they may partly have got into the wrong hands. It is possible that in this way steel truncheons, too, may have got into the hands of unauthorized persons. I know, however, that very few plants were then actually able to produce these steel truncheons. Only a rela-

tively small number was then in question. I recollect that the Main Camp Administration, also being afraid that riots might occur, wished to activate troops like the reinforced plant police II, and requested firearms for them. After long deliberations for and against, the Main Camp Administration received a number of firearms from the plant police. It is possible that also at the same time or before the Main Camp Administration received steel truncheons for the same purpose. I do not recollect any more whether they were supplied by the plant police.

I have carefully read each of the 8 pages of this affidavit, made the necessary corrections in my own handwriting and initialed them, and I declare herewith under oath that in this affidavit I have told the full truth to the best of my knowledge and belief.

[Signed] FRIEDRICH VON BUELOW

TRANSLATION OF DOCUMENT NIK-6812
PROSECUTION EXHIBIT 1235

STATEMENT OF DEFENDANT KUPKE, 21 SEPTEMBER 1945,* CONCERNING HIS RESPONSIBILITIES FOR FOREIGN WORKERS CAMPS, AND THE RELATIONS OF KRUPP WITH THE GESTAPO

Essen, 21 September 1945

The following statement is made by me voluntarily and without any duress:

I would like to repeat that I do not know of any complaints by foreign laborers about insufficient food or ill-treatment in the camps. The documents presented to me here, in which foreign laborers complain about food and ill-treatment, are most likely correct, even if I am not able to remember all that happened during that time. Foreign workers used to work only 10 hours per day. I recognize the document shown to me according to which eastern workers had, in principle, to work 12 hours per day.

In my field of activity in connection with the camp management, I had to take care of food, lodging, organization of the camps, and security measures, such as, for instance, the supply of the necessary personnel, supervision, and care of foreigners, and similar duties.

I was in charge of the supervision of all the Krupp camps, except prisoner of war camps, concentration camps, and special camps. Moreover, I used to report to Mr. Ihn or von Buelow on financial matters. This concerned one of our deputy camp

* This statement was given to Allied investigators during the preparation of the trial before the International Military Tribunal in which Gustav Krupp was indicted.

leaders, Mr. Leeners, who later on worked at Krupp's for the Gestapo. From the middle of 1944, he received an additional efficiency bonus of RM 50—per month. I personally applied to Mr. von Buelow for this bonus and then passed it on to Mr. Leeners. He worked only for the Gestapo; he made statements on and inquiries into various offenses and political matters. I personally had nothing to do with these matters. Krupp paid a special bonus to Gestapo agents; this was usually paid out by Mr. Wilshaus. Leeners informed me that he only acted as intermediary, and that it was von Buelow only who, in his capacity as counterintelligence agent, dealt with the Gestapo. It was for the first time today that I heard that von Buelow belonged to the Direktorium. I seldom went to the Gestapo alone, in most cases von Buelow was with me. At the Gestapo I used to confer with Criminal Commissar Bowensiepen and the Gestapo chief, Kriminalrat Nohles. We then discussed security matters and questions pertaining to mail control. Cases pertaining to death or escape were dealt with in writing. Relevant reports always went to Mr. Ihn and Mr. von Buelow. I used to report personally to the Gestapo on political matters, such as security matters, morale, complaints of the foreign workers, and also on political affairs of camp inmates. Mr. Ihn was informed about all conditions in the camps. So also was von Buelow, who through the plant police was in charge of the camps for eastern workers until I took up my duties. I continued to inform both of them about everything. In the begining of 1944, at a discussion of the Direktorium, I informed the gentlemen about conditions in the camps. As such discussions used to take place frequently, I assume that the Direktorium was informed of the situation.

With reference to the directors with whom I personally discussed matters, I am only able to name Messrs. Janssen, Houdremont, and Erich Mueller. In 1936 I was invited to the villa "Am Huegel" by Gustav and Alfried Krupp, together with War Minister von Blomberg, his staff, Professor Mueller, Erich Mueller, and the Direktorium. On that occasion I gave a lecture on railroad and artillery guns, especially referring to the "Big Bertha" which was then being displayed.

Some months later I once more visited the villa, together with the artillery inspector of the OKW, when Gustav and Alfried Krupp made inquiries with regard to the different types of guns. The steel rod shown to me is unknown to me.* The ones which were distributed among us had no rubber or handle, but were made of plain steel bound with wire.

[Signed] HANS KUPKE

* Kupke refers to an instrument allegedly used for corporal punishment of workers.

TRANSLATION OF HOUDREMONT DOCUMENT 195
DEFENSE EXHIBIT 1301

AFFIDAVIT OF DEFENSE AFFIANT FERDINAND SCHMITZ, 23 MARCH 1948, CONCERNING ACCOMMODATIONS, FOOD, AND ENTERTAINMENT PROVIDED FOREIGN WORKERS AT KRUPP'S FRIEDRICH ALFRED FOUNDRY*

I, Ferdinand Schmitz, residing at Rheinhausen, Friedrich-Alfred-Strasse 182, after having been instructed of the significance of the oath, and of the fact that the making of a false affidavit is punishable, herewith make the following statements to be used in court, in particular by the American Military Tribunal in Nuernberg, in connection with the trial against Alfried Krupp:

Since 1913 I have been employed in the dormitories and the canteen of the Friedrich Alfred Foundry, and during the war I was in charge of the accommodation and feeding of the foreign workers of various nationalities who were employed at the Friedrich Alfred Foundry, a task in which I was supported by the plant management in every possible way. Apart from the endeavors made to provide decent and clean accommodations and adequate food, everything possible was done in order to make the hours of leisure pleasant. The plant library procured numerous books written in various languages and they were loaned out free of charge. In addition, many daily newspaper and periodicals were distributed among the foreign workers. A sports field, as well as sports equipment and sports clothing was made available, so that the workers could go in for sports. A soccer team consisting of Belgians played against the teams of other community camps, and won a cup. Those nationalities that were most numerous had their own orchestras and theater (vaudeville) groups, and one hut in the camp, in which there was a stage, was always at the disposal of each nationality in turn. For purposes of larger performances the big hall of the high school or other halls of considerable size in the town were rented, and the fellow countrymen of other community camps were invited to attend these performances.

The groups also visited, and gave performances in other community camps; thus, for instance, a choral, musical, and theatrical group consisting of Ukrainians repeatedly played before their fellow countrymen in the camp of the Friedrich Heinrich Mine

* Affiant Schmitz was not called for cross-examination by the prosecution and did not appear as a witness.

at Lindfort (Kreis Moors). The foreign workers were also given seats for the cinema shows and vaudeville performances given at the plant.

We were always able to provide special food on high holidays.

I also saw to it that religious ministrations were available as far as possible. For instance, the Polish workers were regularly taken care of by a priest of the Catholic St. Peter's Vicarage, who could speak Polish, and an Italian priest conducted regular services in the camp for the Italians. I notified the camp of the schedule of religious services of the local Catholic and Protestant churches, as some of the workers attended these services. The Ukrainians attended the Catholic services though this was not regarded as desirable from the political elements.

[Signed] FERDINAND SCHMITZ

Rheinhausen, 23 March 1948

EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS HEINRICH HUEMMERICH BEFORE COMMISSION II*

DIRECT EXAMINATION

* * * * * * *

DR. MASCHKE (assistant counsel for the defendant von Buelow): Will you tell the Tribunal your full name?

WITNESS HUEMMERICH: My name is Heinrich Huemmerich, and I live at Essen, Bredenei Bruttelskamp 12.

Q. Were you employed by the firm Krupp?

A. I was with the firm of Krupp since 1928, until the end of the war.

Q. Were you a member of the Krupp plant police?

A. A member,–no I was not a member of the plant police at Krupp's.

Q. Were you a member of the plant squad [Werkschar]?

A. Yes, I was in the plant squad.

Q. From when until when were you a member of the plant squad?

A. From the middle of the year 1936, when I joined the plant squad, and I remained in this organization until the end of the war.

* * * * * * *

Q. Do you know anything about assignments of the plant squad?

* Complete testimony is recorded in the mimeographed trancript, 21 and 22 May 1948, pp. 9068–9086, 9126–9145.

A. The plant squad was affiliated with the German Labor Front, and as such it had to recruit for this organization and its aims, and had to support the carrying-out of such aims.

Q. Can you tell the Tribunal of what nature these tasks were you talk about?

A. The tasks of the plant squad were manifold. It was to create one's work more beautifully, and one's free time, healthy living, comradeship in the plant, etc.

Q. Did these tasks of the plant squad change during the war?

A. No. In the main these tasks remained the same, but there were a number of additional tasks, for instance in the plant police, and also in the air raid protection.

Q. Did you have any additional tasks in the so-called EWS-I? [Erweiterter Werkschutz—plant police and auxiliaries]

A. The plant squad was part of the EWS-I as a unit, but as far as discipline was concerned it was still subordinated to Mr. Keul, that is, therefore to the chief of the plant squad.

* * * * * * *

Q. Who was in charge of the EWS-I?

A. The chief counterintelligence official [the defendant von Buelow] was the chief of the EWS-I.

Q. Do you know why that was so?

A. The EWS-I as such, had a military character and for this reason I suppose it was supervised by the official in charge of the military intelligence because he was in contact with the Wehrmacht—

Q. Did you have any assignments of leadership in the EWS-I?

A. In the "Werkschar" which was affiliated with the EWS-I, I was an administrative leader.

Q. Do you know at all whether this EWS-I was to be billeted in barracks?

A. Yes, that project was talked about, but it could not be carried out because these people would have had to be withdrawn from their actual place of work.

Q. Then they were never actually billeted in barracks?

A. Yes, eventually it did come to that.

Q. Would you give us an explanation of how this happened?

A. Part of the people concerned were combined and were stationed in the basement of the main administration building, in order to be at the disposal of the enterprise for cases of emergency.

Q. Were they always the same people who were billeted there?

A. No, there was only a small unit on duty there permanently. The others were changed from time to time.

Q. What was the number of this unit?

A. I don't quite understand that. You mean the unit billeted in barracks?

Q. Yes.

A. There might have been 45 to 50 men who were occasionally augmented after a bomb attack.

Q. According to your knowledge, what was the size of the entire EWS-I?

A. The EWS-I, consisted of 350 men.

Q. That is 300—350 men?

A. Yes.

Q. Was the EWS-I ever used for the purpose that it was founded for?

A. No. The emergency case for which the EWS-I was created, actually never took place.

Q. Were there ever rehearsals of alarms in order to examine the efficiency of the EWS-I?

A. Yes, a number of test alarms did take place.

Q. Now, about this unit put into the basement, what did they do in this basement?*

A. They were put into this basement, and then waited for things to happen.

Q. Did that take place the whole time?

A. No, that was only a comparatively short time. It may have been a fortnight, and then this unit was put at the disposal of the plants for patrol duty and such matters.

Q. You mean it was put at the disposal of the regular plant police. Is that right?

A. Yes.

Q. Now, who gave the directives for this assignment?

A. The directives for the patrol duty were received from the chief of the plant police, Mr. Wilshaus.

Q. Did you have to follow the directives issued by Wilshaus for the EWS-I?

A. The plant police had to comply with his directions.

Q. Did you have any dealings in this connection with Mr. Hassel?

A. Hassel was the deputy chief of the plant police, and thus he was also our chief.

Q. When this unit billeted in barracks had been put at the disposal of the plant police, did he also pass on orders to you?

A. Yes.

Q. I did not hear your answer.

A. Yes.

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* This refers to the central office of the Krupp plant police in Essen, located in the basement of the Main Administration.

Q. When did that begin?

A. I couldn't tell you exactly. Mr. Hassel had been on convalescence leave. He found this unit in the basement, and he took special care of this particular unit.

Q. Do you mean he was particularly interested in that unit?

A. Yes.

Q. Perhaps you can explain this, Witness.

A. He regarded this particular unit as a unit under his power of command.

Q. And the special jurisdiction which arose from this—he being your superior—did he emphasize that particularly?

A. Yes, he acted as an immediate chief and he wanted to be regarded as such.

Q. Did you comply with the orders of Mr. Hassel without further ado?

A. Yes, we did because Mr. Hassel was a rather severe and brutal man, and noncompliance with his order would have had severe consequences for those who did not actually comply.

Q. Were you aware of the fact that Hassel was a member of the SS?

A. Yes, he was constantly wearing his SS uniform with the insignia of an SS lieutenant colonel.

Q. Do you know whether Mr. Hassel had a high position in the Party?

A. I do not know. I know he had the Golden Party Badge.

Q. Will you please explain what that is—the Golden Badge?

A. Those were members of the Party who had been in the Party for a long time. Those were men who had been in the Party before the rise to power of the Nazis or people who had some special distinction at their credit and therefore got the Golden Badge.

Q. Witness, in what personal relationship were you with Hassel?

A. I met Hassel in the cash registry department where Hassel had been locksmith. That was before the rise to power of the National Socialists. That was in 1928 when I joined Krupp.

Q. And did a particular relationship of friendship arise between you?

A. A relationship of friendship is out of the question here although we were on friendly terms; we called each other "Du," but there was no special friendship between Hassel and myself.

Q. Do you know whether Hassel was in very close relationship with the Gestapo?

A. Hassel bragged about this; he constantly spoke about the

chief of the Secret State Police, of Kriminalrat Nohles.[1] He spoke about him as his dear friend Peter.

Q. You mean Mr. Hassel was proud of this relationship?

A. He bragged about it.

Q. But whether he actually had such relationship, you don't know?

A. No, I don't know it.

Q. Witness, I am coming now to a number of incidents which are supposed to have taken place in the basement of the main administration building at the time when the EWS-I, was stationed there. The prosecution has submitted evidence from which it becomes evident that in the basement of the administration building eastern workers were beaten by members of the units stationed there. I am now asking you: Is that correct?

A. Yes.[2]

Q. Did you have an order of the plant police chief to beat these workers.

A. No, from Mr. Wilshaus, who was the chief, we never received such an order. On the contrary Mr. Wilshaus emphasized again and again that we should not beat the workers.

Q. How were the orders of Wilshaus made known, to the effect that the workers were not to be beaten?

A. They were oral orders, and also in writing.

Q. You said that they were made known orally, and also written. Could you, with certainty, Witness, remember that these orders were also issued in writing?

A. I remember for certain one written copy of such an order which was submitted to me, and which I had to sign with my name.

Q. That happened once, according to your memory?

A. Yes, I remember just once.

Q. I am asking you, Witness, as regards these orders by the chief of the plant police, how could it happen that these beatings were actually carried out in the basement of the main administration building in spite of the order?

A. Mr. Hassel gave the orders. He said, "In this basement, I am the chief. No one has anything to say at all."

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[1] Nohles appeared as a defense witness. Extracts from his testimony are reproduced below in section VIII D 4.

[2] In view of this testimony by a defense witness, much of the prosecution evidence on this point has not been reproduced herein. For example, Miss Ilse Wagner, a German employee who worked in the office next to the room where the beatings took place, gave an affidavit (NIK–13276, Pros. Ex. 1017) and testified about this matter. (Tr. 10 Feb. 1948, pp. 3687–3703.) She testified that Mr. Huemmerich once compelled her to witness the beating of an eastern worker in the room and that on other occasions she heard the screams of eastern workers who had been taken to the basement room.

Q. Can you remember any individual cases?

A. I can remember that on one occasion, eastern workers were apprehended who had a whole bag full of butter. On another occasion it was a matter of buckets full of marmalade, potatoes, onions, which were meant for food for the civilian population as well as for the foreign workers, and was of great importance to these people.

Q. You mentioned a while ago that the order was that these delinquents should be warned first of all. How is it that you knew about this order?

A. Hassel told me himself, personally.

Q. Now you carried out these orders of Hassel's?

A. Yes.

Q. Can you tell us how often these punishments happened?

A. At the beginning, this kind of punishment was rare, but as the end of the war approached, when the bombing attacks increased, plunderings and thefts increased too, and then it happened more and more often that people were seized and turned over to us.

Q. You say that did not happen very often at the beginning. What do you mean, "at the beginning"?

A. During the last months of the war, it was only during the last months of the war that these corporal punishments began.

Q. Witness, I ask you, did you inform Mr. Wilshaus or any other gentlemen from the Direktorium of the firm of Krupp, or any other superior of yours, or the chief counterintelligence agent about these happenings?

A. No.

Q. Why not?

A. In accordance with the decree of Hassel's, the incidents taking place in the basements were not to be discussed. Hassel emphasized the fact that if one were to talk about it, something would happen.

Q. Witness, you said some time ago that you had known Hassel for quite some time; that you hadn't exactly been a friend of his, but that you were on friendly terms with him. Were you afraid that this warning might also refer to you?

A. Yes, certainly I was. My relations with Hassel in later years deteriorated considerably.

Q. And you had reason to believe Hassel would not consider your friendly relations in case you did undertake anything?

A. Mr. Hassel was a very ruthless person. If somebody was not in agreement with him or his views, he acted relentlessly whether the person concerned was a friend of his or acquainted

with him, or whether he wasn't. He was completely ruthless in the carrying out of his own aims.

Q. Did all the men who were stationed in the cellar of the plant squad, members of the EWS-I, take part in these incidents?

A. No, not all of them participated.

Q. Do you know whether the other people reported about these incidents?

A. I don't think so.

Q. Why not?

A. Because the attitude of Mr. Hassel was thus: That none of the gentlemen concerned wanted to spoil their relations with Hassel because it was clear to everybody concerned that if they said anything, something terrible would probably happen.

Q. Did you discuss this matter with your comrades of the plant squad, or did you discuss the fact that this information was not to be passed on?

A. We did discuss it, and I, on my own initiative, told these men that they should keep silent in order not to endanger themselves, and to protect their own security.

Q. Were you yourself in agreement with the fact that these people were maltreated?

A. No, I was not in agreement.

Q. But you did take part in it?

A. I had to take part in it because it was an order by Hassel.

Q. Do you regret these incidents?

A. Yes, I do regret them extremely, and I wish I could make these things undone.

Q. Do you know whether Mr. von Buelow ever entered the cellar of the administration department?

A. He was there on many occasions in order to visit his EWS-I people.

Q. He regarded these EWS-I people as his own people, although they were members of the plant police, did he not?

A. I can say, on my own initiative, that I was of the opinion that von Buelow was especially interested in the welfare of these EWS-I people.

Q. Now, according to your own personal knowledge, and observations, were there ever beatings while Buelow was there?

A. Definitely not. In the presence of Mr. von Buelow nobody would have dared to maltreat any worker, because everybody was aware of the fact that it was just Mr. von Buelow who was by no means in agreement with these people being beaten, or with any other corporal punishment.

CROSS EXAMINATION

* * * * * * *

MR. THAYER: If when on your guard duty, before you had offices in the main administration building, you picked up a prisoner, where did you take him?

WITNESS HUEMMERICH: If a prisoner was apprehended he was taken to the place of the plant police.

Q. Was that just one office, or were there several offices?

A. The plant police had one office in the main administration building.

Q. And no branch offices around the city, around the plant?

A. No.

Q. These beatings which were occurring, and you have described them in your affidavit* as having taken place in the main administration building, were preceded by beatings by pretty much the same group of men much earlier, weren't they?

A. I cannot remember any case where it happened before. Only after the middle of 1944 when we were actually in the basement. Before that I had nothing to do with the whole matter, anyway.

* * * * * * *

Q. Where did Hassel get the leather truncheons which he passed out to you?

A. The leather truncheons were made I think by the plant police so far as I can remember.

Q. And distributed by whom?

A. They were distributed by the plant police through a directive originating with Hassel to distribute them.

Q. Where did Hassel get them?

A. I have already stated from the leather work shop.

* * * * * * *

Q. After you beat these men up, didn't you "slam" them up against the wall, usually, and make them stand there with their face against the wall for a considerable period of time?

A. No.

Q. Did you ever do that?

A. When people were brought in and Mr. Hassel had no time to deal with them, then these people were stood up against the wall in this basement, and they had to wait until Hassel had time to deal with them.

Q. Isn't it correct that after you beat a man, you sometimes stood them against the wall, sometimes as long as all night?

A. When we had beaten these people, these people were released by us, and so far as we were concerned they could return to their plant, or they were sent under guard to their own plants.

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* In view of the similar statements made by Huemmerich during his direct examination above, the affidavit referred to is not reproduced herein.

Q. If you caught somebody in a fairly serious offense, or what you considered a serious offense, you mean you just gave them a few whacks and then let them go?

A. If a serious offense had been committed, then Hassel gave his directive, and the man concerned usually was taken to the Gestapo.

Q. Usually after these men had been beaten with a leather truncheon, there was blood on them, wasn't there?

A. No, I never saw that.

Q. I mean, on the men?

A. No, not that, either.

Q. You mean, that a strong man could beat a man after his clothing had been removed, at least 15 times, or up to 15 times, as you say, and that no blood would show on that man's skin?

A. The clothes were never removed from these people.

Q. You wouldn't have known whether they were bleeding under their clothes, or not, would you?

A. That I don't know, because they always kept on their clothes.

Q. Did you ever see them bleeding around the face?

A. No, I didn't see anything of the kind.

* * * * * * *

Q. Weren't there some cases where you brought people in, gave them a beating, and then later on it was decided what would be done with them; whether or not they were to be released, or sent to Dechenschule,* or sent to the Gestapo, or whatever was to be done with them?

A. This was never made known to me.

Q. You are willing to testify then that just as soon as a man was brought in, a decision was made immediately by Hassel or somebody higher, what was to be done with that man, is that correct?

A. Mr. Hassel gave the directive as to what was to be done, generally, immediately.

Q. And when Mr. Hassel was not there?

A. Then the man had to be kept until Hassel returned.

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* The Dechenschule camp was a special training or penal camp for foreign workers in Essen. Materials concerning this camp are reproduced below in section VIII D.

AFFIDAVIT OF DEFENSE AFFIANT DR. GERHARD WIELE, 25 SEPTEMBER 1947, CONCERNING PROSECUTION EXHIBIT 911 AND HEALTH CONDITIONS OF EASTERN WORKERS

I, Dr. Gerhard Wiele, resident at Essen, Kirchmannstr. 9, after having been duly instructed as regards the importance of an oath and the punishment for perjury, make the following affidavit to be used in courts, in particular before the American Military Tribunal in Nuernberg.

A document, dated 7 March 1943, numbered D–283, [Pros. Ex. 911]* has been shown to me today. I herewith certify that said document was written by me on that date. I sent this letter to the head of Krupp's health insurance administration [Mr.] Vossiek, since deceased, because he had told me that he would have contact with official agencies and would use this occasion to improve the food situation of foreign workers, in particular that of eastern workers; since the tendency prevailed at that time to try to improve the food situation of the eastern workers, I sent the letter referred to above to Mr. Vossiek in order to assist his endeavors to improve the feeding of eastern workers.

I have the following to add in this connection:

According to data now at my disposal, the firm of Krupp, on 1 January 1943 employed 5959 eastern workers. If my statement reads that four-fifths, that is 80 percent, died from tuberculosis and malnutrition, then this figure is to be understood in relation to the total number of fatalities, not to the total number of eastern workers employed. When I chose this particular way of expressing myself, it was my intention to stress the insufficiency of eastern workers' rations and bring it to the attention of the authorities—an insufficiency, by the way, seen even as under the aspects of that period. Retrospectively as viewed today, the rations were then about twice as much as those which German normal consumers had to put up with frequently during the last years. As far as I remember from newspaper reports on the trial before the IMT, Justice Jackson as Chief Prosecutor is supposed to have made use of Document D–283 in a generalizing way, as if four-fifths of the eastern workers employed by Krupp had died from tuberculosis and malnutrition. The fallacy of this conception should become manifest from the explanation made above.

I would like to add, however, that, as far as I knew the situa-

* Reproduced above in this section.

tion, many of the eastern workers who died already had tuberculosis when they arrived at Krupp's. There was a noticeable spread of tuberculosis among eastern workers in general. This gave cause to anxiety as far as medical care was concerned, and immediately upon learning about this fact we had large scale X-ray examinations carried out.

In conclusion I want to point to the fact that the ratio four-fifths clearly does not correspond to facts. The hospital administration has in the meantime upon request compiled a record of all foreigners under treatment and deceased. As far as the 54 eastern workers under discussion are concerned, the causes of death can be seen from list attached. This goes to prove that fatalities caused by tuberculosis and malnutrition amount to no more than 48.08 percent.

[Signed] DR. GERHARD WIELE

EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS GERHARD WIELE BEFORE COMMISSION I[1]

DIRECT EXAMINATION

DR. PESCHKE (counsel for the defendant Houdremont: Mr. Commissioner, is it permitted to show the witness an affidavit and to have him acknowledge it? He gave it to us and it is in Houdremont book 3, Ihn Document 85 [Def. Ex. 744][2]. The prosecution received the English translation of book 3 some time ago.

COMMISSIONER CRAWFORD: I think this will be permissible.

DR. PESCHKE: Witness, this is your affidavit?

WITNESS WIELE: Yes, that is my affidavit.

Q. You have nothing to add or correct?

A. No.

Q. Is it correct?

A. Yes, it is correct.

* * * * * * *

CROSS-EXAMINATION

MISS GOETZ: Dr. Wiele, have you rendered professional services for the family of Krupp?

WITNESS WIELE: As a doctor?

Q. Yes, that's the question.

A. Yes.

Q. Were you Gustav Krupp's personal physician?

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[1] Complete testimony is recorded in the mimeographed transcript, 26 May 1948, pp. 9827–9849.

[2] Affidavit is reproduced immediately above.

A. Yes.

Q. Have you served as physician for Alfried Krupp?

A. Yes, but he was hardly ever sick.

Q. Would you describe yourself as a family physician for the Krupp family?

A. Yes.

Q. Who was responsible for the medical care of the Essen civilian workers employed by the Krupp firm from 1942 to 1945?

A. The kassenaerztliche Vereiningung [Association of Health Insurance Physicians] that is, the independently practicing physicians of the city of Essen.

Q. What was your responsibility in this field?

A. I was head of the health organization for Krupp workers and I had to take care of all of those who were admitted into a hospital.

Q. Did you have any responsibility for the eastern workers who were in the camps?

A. Only insofar as they were sick and were admitted into a hospital.

Q. Before they were taken into a hospital, did you have any responsibility?

A. No, in that case they were taken care of by the doctors of the city, with a temporary exception—when they arrived, there was a very short time during which the responsibility for their medical care was not clear. During that time, in spite of the fact that we were overworked, some of my doctors took care of them for humane reasons.

Q. How long was this period of uncertainty; when did it end?

A. Only a few weeks.

Q. Well would you say it ended in the summer of 1942, or in the spring of 1942, or in the fall of 1942?

A. No, that was after only a few weeks in the summer; no longer than that. My earphones do not work quite right, but I think I can manage.

THE COMMISSIONER: Perhaps he has the wrong channel.

WITNESS WIELE: It is all right now.

MISS GOETZ: Now, who is Dr. Jaeger, and what was his responsibility for the care of the eastern workers?

WITNESS WIELE: Dr. Jaeger was appointed as camp physician in the fall of 1942; that was a new arrangement demanded by the German Labor Front. At the same time he had another function. The Society of Independently Practicing Physicians, [Vereinigung der frei praktizierenden Aerzte] called the KVD, employed him to see to it that there was always a doctor in every camp, that in the case of sickness and leave there would

always be someone available. He worked for the KVD in that form, and was also chief physician of a camp, so that he could carry out this function uniformly.

Q. Who paid Dr. Jaeger's salary, do you know?

A. The Krupp firm, according to the contracts which the German Labor Front made generally.

Q. Did Dr. Jaeger ever advise you of the conditions in the eastern workers' camps?

A. He visited me occasionally, and he also gave me carbon copies of his reports.

Q. To whom were the reports made?

A. There was a distribution list on the reports.

Q. Well, do you recall the distribution list?

A. Usually it went to the Gau health commissioner Dr. Heinz; and I believe to the Amtsarzt [public health physician]; Director Ihn of Krupp; sometimes Dr. Beusch, and he sent copies to me, too.

* * * * * * *

Q. Did you ever visit the camps in 1943 or 1944? I am talking about Kraemerplatz or Rabenhorst or any of the other eastern workers' camps; I am not talking about the western workers' camps.

A. I was in a few camps a few times together with Dr. Jaeger, when Dr. Jaeger invited me to accompany him.

Q. Do you recall the camps?

A. Yes; not very accurately, but in general.

Q. Did you consider the medical facilities adequate?

A. Yes, as far as I saw.

* * * * * * *

Q. Now, in your affidavit in Ihn book 8, page 76 of the English, Ihn Document 24, Defense Exhibit 745,* you say there were 91 cases of oedema?

A. Yes.

Q. Do you recall when these cases manifested themselves?

A. As I recall, they manifested themselves shortly after the first transports came from the East.

Q. When was this?

A. The first transports came at the beginning of March—end of February, beginning of March—1942.

Q. Didn't you have oedema cases in January 1943?

A. I hardly believe so. There may have been a few that came in later, there may have been a few relapses, but they stopped in general.

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* This affidavit is not reproduced herein.

Q. Do you recall what your deaths from oedema were in 1944?

A. I believe there weren't any direct deaths from oedema. Those that we treated in hospital, as far as I remember, all survived.

Q. Do you know about what medical treatment was available at the camps?

A. The camps bought the necessary drugs at the pharmacies, as far as I know, and this was done I believe through the Krankenkasse [health insurance fund].

Q. Dr. Wiele, do you know what medical supplies were available at the camps? Not what your assumption was as to what they did. Do you know?

A. No, I don't know exactly.

Q. Do you know what the medical situation was at the prisoner of war camps?

A. No, I know nothing about the prisoner of war camps.

* * * * * * *

REDIRECT EXAMINATION

DR. BEHRINGER (counsel for the defendant Kupke): I have a few questions.

Witness, you said that the facilities of the Krupp medical institutes were used for workers coming from the West to have their place of work changed?

A. Yes.

Q. Were the eastern workers, too, examined at your hospital when there was some reason for changing their place of work?

A. Yes, that was done.

Q. This check then affected not only the western workers, but also the eastern workers?

A. Everyone who came was either treated or dealt with in some other way.

* * * * * * *

TRANSLATION OF EBERHARDT DOCUMENT 356 DEFENSE EXHIBIT 2417

AFFIDAVIT OF ERNST OMMEN,[1] 7 FEBRUARY 1948, CONCERNING THE TREATMENT OF FEMALE CONCENTRATION CAMP INMATES EMPLOYED BY KRUPP AT WUESTEGIERSDORF[2]

I, Ernst Ommen, domiciled at Witten—Ruhr, Ruhrstrasse 57, I, after the significance of an oath has been pointed out to me,

[1] The affiant was not called for cross-examination.

[2] Site of Krupp fuse workshop.

and having been warned that I shall be liable to punishment if I make a false affidavit, herewith declare on oath the following, to be used before the court, in particular before the American Military Tribunal in Nuernberg: The decent treatment of the Jewesses in the fuse workshop of the firm Krupp, which had been shifted to Wuestegiersdorf near Waldenburg in Lower Silesia, their good health, and the fact that they were well nourished, was specially acknowledged by the command of the invading Russian Army, and the good treatment of the population by the Russians has to be attributed to that fact.

I was told by my people, nearly all of whom lived in three neighboring villages, that this fact, viz the good treatment etc., was even specially mentioned in a broadcast report.

I personally did not hear this report myself, as all radio sets at Wuestegiersdorf had *immediately* to be handed over to the Russians under penalty of death.

Witten, 7 February 1948, Ruhrstrasse 57 I

[Signed] ERNST OMMEN

[Stamp]

Above signature certified.
Witten, 9 February 1948
City Commissioner
(Control and Executive Office)
BY ORDER:

[Signed] KOCH

TRANSLATION OF KORSCHAN DOCUMENT 73
DEFENSE EXHIBIT 2212

AFFIDAVIT OF EBERHARD FRANKE, CHIEF OF THE PERSONNEL OFFICE OF KRUPP'S BERTHA WORKS, 9 MARCH 1947, CONCERNING DEVELOPMENTS AT MARKSTAEDT AND EMPLOYMENT OF FOREIGN WORKERS AND CONCENTRATION CAMP INMATES*

I, Dr. Eberhard Franke, born 30 November 1909 in Gelsenkirchen, residing in Hoever near Hannover, have been warned that I render myself liable to punishment by making a false affidavit. I declare on oath, that my statement is true, and was made in order to be submitted as evidence to the Military Tribunal III A (Case 10) at the Palace of Justice Nuernberg, Germany.

On 1 September 1938 I entered the firm of Fried. Krupp A.G. in Essen and at first worked in the historical department. In

* Extracts from the testimony of Franke concerning this affidavit are reproduced immediately following this affidavit.

903432—51——62

spring 1941 I was assigned to the department of Mr. Ihn for further training (personnel and employee matters).

About the middle of 1942 I was transferred to the Bertha Works as head of the personnel office and internal administration, and vested with the authority to act on my own initiative; and at the end of 1943 I was made Prokurist. At first I worked under Mr. Hupe, who was a member of the Vorstand and manager of the enterprise. The following departments belonged to my sphere of work: camp matters, personnel matters, employee relations, labor allocation (only in the beginning), works safety measures, wages and salary, pay office, works sick fund, social insurance and administration office (up to 1 July 1943). Besides Mr. Hupe, Mr. Rosenbaum also belonged to the Vorstand of the Bertha Works at that time. He dealt with the works planning and the technical bureau.

I. At the end of June 1943 Mr. Korschan took the chair in the Vorstand of the Fried. Krupp Bertha Works A.G. On 1 July 1943 Dr. Wollstaedter, as director of the Bertha Works, took over the management of the economic and administrative departments. He became my superior at that time and remained in this position until 1945.

In the middle of July 1943, due to difficulties in the light field howitzer production, Mr. Reiff was appointed by the Essen directorate as Krupp's Commissioner—vested with special powers—for the light field howitzer production in Markstaedt. Mr. Hupe therefore resigned from his post as head of the production plants, and concerned himself with the placing and supervision of the transfer of contracts for light field howitzers to other firms.

Approximately in the middle of October 1943, Mr. Saur, head of the technical office in the Ministry of Munitions, during a visit to the Bertha Works, assigned an administrator of the Armament Ministry, Gueldemeister by name, to the light field howitzer production. He was to exclude the Vorstand and take all the necessary steps to safeguard and promote the gun production through Mr. Reiff, whom Saur had appointed as liaison officer to Krupp. Moreover, as far as it concerned the production of guns, he had control over the necessary technical and also certain economic and administrative departments, such as the purchasing office, the office for the transfer of contracts, the food office and labor allocation.

In autumn 1943 Mr. Schwager from the economic office of Mr. Girod in Essen, was appointed labor allocation engineer for the Bertha Works. On 18 January 1944 all plants and offices in Markstaedt were amalgamated in the "Maschinenfabriken of the Fried. Krupp Berthawerk A.G.," by order of Mr. Alfried von

Bohlen, and Mr. Girod was appointed as manager, and as such directly subordinated to the Board of Directors [Direktorium] in Essen. From then on, the Vorstand of the Bertha Works no longer had any authority in the Bertha Works. Mr. Hupe was recalled from the Vorstand, Mr. Girod was also nominated as "Manager of the Machine Factories."

II. At the beginning of 1943, workshop 4 was taken over by Krupp (Rosenbaum) and in the middle of February electric power was installed, so that production could be started. Mr. Alfried von Bohlen was present when the first machines started to operate; Gauleiter Hanke and the regional chief of the DAF [German Labor Front] were also present. The influence of the Party on the works was very strong from the beginning. Gauleiter Hanke had already in 1942 appointed a special plenipotentiary for the Bertha Works, who constantly spied upon persons in leading positions and on their business affairs. This man was called Stumpe. He was [Nazi Party] district leader of Hirschberg, and committed suicide after the collapse in 1945.

Another Party spy was Senior Camp Leader Rolle, whom I dismissed without notice, when I found out that he had beaten civilian foreign workers. His dismissal was against the express wish of the Party, which shielded him, because Rolle was a holder of the Golden Party Badge, and of the Blood Badge [Blutorden], and was SA second lieutenant. Despite repeated intervention by the Party agencies in Breslau, I could not be persuaded to reinstate Rolle. In this undertaking I was effectively supported by the works management.

III. From the very beginning it was intended to transfer the permanent staff of the Bertha Works, that is German as well as foreign workers, from the Essen plants to Markstaedt. Any labor requirements beyond this were to be supplied by the Regional Labor Office Lower Silesia in Breslau. From among the civilian foreigners, the Czechs and Frenchmen were the first to be transferred from Essen to Markstaedt. The Czech workers were made available by the Ministry of Labor in Prague through the help of the Regional Labor Office Breslau.

Later on, Ukrainians, Italian military internees, French prisoners of war and finally concentration camp inmates were also sent. We did not have any Russian prisoners of war in the Bertha Works. The total number of workers in January 1945—excluding the employees—amounted to 12,000 men. Of these 2,000 were Germans, 5,000 foreigners and 5,000 concentration camp inmates.

a. The *Czechs* were very good workers. Their home country was in the vicinity. It was very easy for them to cross the

border and go back to the Protectorate if they wanted to do so. The percentage of Czech workers who escaped was, however, very low in the Bertha Works. It amounted to hardly 1 percent, whereas I know for instance, that 25 percent of the Czech workers of the firm of Rheinmetall-Borsig in Breslau escaped during the same period.

The Czech workers were billeted in a camp near the village of Markstaedt. They, like all those of other nations, had their own kitchen and kitchen staff which was supervised by their agents, only the final control being in the hands of the food department. The rations were the same as those issued in German camps. Over and beyond these official rations—which, in the case of the employees of the Bertha Works, were on an average equivalent to those for heavy workers—the daily rations were always increased by 10–20 percent, especially with regard to potatoes, vegetables, and cereals. This also applied to the other foreign workers. There were no cases of undernourishment. The good food in the Bertha Works became proverbial in Lower Silesia.

In their leisure time the Czechs had their sports. Their soccer team in the Bertha Works won the Lower Silesian championship four times in succession. The plant bore the costs for the equipment, traveling expenses, victory celebration, etc. Even boxing matches were held in the camp between teams of the various nationalities. I still have a photograph of a boxing match in the camp of Jeltsch in November 1944, to which I had invited Max Schmeling as referee; this photograph shows me welcoming Max Schmeling in the boxing ring of the camp of Jeltsch. Furthermore athletic contests were held by the teams of the various nationalities. Libraries, musical instruments, and radios were ordered for each nationality in the various camps at the expense of the firm.

b. The *French* camp was also located near Markstaedt. The conditions there were the same as in the Czech camp.

c. The *Ukrainians* joined the Krupp employees voluntarily when the Germans evacuated the Ukraine in September 1943, and arrived in Markstaedt at the beginning of October 1943, their number totaling several hundred persons, including grandparents and children. A special camp was built for them, which included a school and a children's welfare center. I succeeded in preventing them from having to wear the prescribed "eastern worker" badge on their clothing, for which the Ukrainians, who looked upon this badge as an insult, were very thankful.

d. The *Italian military internees* (Imis) were also sent to Markstaedt in October 1943. They were billeted in the camp "Markstaedt Nord" and were guarded and fed by the armed

forces. The food situation in their case was also favorable. On 1 September 1944 their status was converted into that of free civilian workers and they were then cared for by the central office of the community camp of the Bertha Works.

e. Concentration camp inmates were sent to Markstaedt in the middle of October 1943 for the light field howitzer production, as a result of negotiations between Mr. Reiff and Oranienburg, or rather Gross-Rosen. The driving power behind this was the Ministry of Munitions. There were no more workers in Lower Silesia, and Essen could not spare any more. A bottleneck therefore developed in the Bertha Works, which had to yield to the directives of the Army Ordnance Office and the Ministry of Munitions.

The concentration labor camp Fuenfteichen was built by the Armament Development Speer. The further installation (painting, furnishing, etc.) was done by the SS itself. The feeding as well as the clothing of the inmates was expressly the task of the SS. In addition the concentration camp always received its share of vegetables, fruit, and other additional food, which was officially bought and procured by the catering department of the Bertha Works. When I once tried to have a check carried out by two employees of the catering department in the kitchen of the concentration camp, in order to see how they used the additional food which was made available by the Bertha Works, the camp management did not allow these two employees to enter the camp. There was a clinic in the concentration camp, where all except surgical cases were treated. If an operation was necessary it was performed in our works hospital. There the inmates were treated exactly the same as all other patients.

IV. *a.* The *medical care* for all members of the Bertha Works was exemplary. The works hospital had over 500 beds, and with its installations was the leading hospital among similar institutions in Silesia. A department for the preparation of a special diet for works members suffering from stomach trouble was set up in Markstaedt.

The diet corresponded to the peacetime food of hospitals with private wards. The kitchen was managed by a Czech married couple. The husband had previously been kitchen chef in a leading hotel in Prague. This kitchen was frequented by Germans and foreigners to such an extent, that it became necessary to have a medical certificate to gain admission. At the end of 1944, the kitchen fed 200 people each lunch time.

b. In addition to what was already mentioned under III*a*, generous care was taken of the camp in Markstaedt, and for this

purpose I secured the services of the well-known Rudi Rauher from Radio Cologne. Regular variety shows, plays, and concerts were given and films shown in the camp. Including the sports activities, 350 shows of this kind were performed in the camps of the Bertha Works between 1 October 1943 and 30 September 1944, and more than 200,000 people attended. Each national group had its own library, sports, and theater departments. I also had a special barber's shop, a shoe repair, and a tailor's shop installed for the benefit of the camp inmates. Beyond this, the main camp management procured a lot of underwear and clothing for the foreign workers. Also goods in scarce supply of various kind were distributed among the employees, regardless of their nationality, through special works canteens. All workers of the Bertha Works were currently granted the leave due to them. The only exception was the time between 24 April 1944 and 31 May 1944, when all leave for the rest of the members of the Bertha Works had to be stopped by the management of the machine factories because, due to heavy air raids on Essen on 26 and 27 April 1944, 183 employees whose Essen living quarters were totally destroyed or heavily damaged had to be given leave to Essen.

V. Foreign workers were treated well in the Bertha Works. Individual groups of foreigners in Lower Silesia had their liaison men in the regional administrative office of the German Labor Front in Breslau. These liaison people, in their complaints of conditions in other plants, often quoted conditions in the Bertha Works as being above all others with regard to treatment, accommodation, and food.

Ill-treatment was not tolerated, either in the works or in the camp. I refer to the case already mentioned of Chief Camp Leader Rolle. I also remember the dismissal, for a similar reason, of 2 subordinate camp leaders whose names I have forgotten. Such cases were, however, sporadic. Both the works direction and the central office for collective camps proceeded without mercy wherever such ill-treatment occurred.

VI. *Treatment of concentration camp inmates.* The concentration camp inmates were escorted to work by SS men in the morning and taken away again after work hours. During the time of work there was only a superficial surveillance by the SS. Individual groups of workers were under the supervision of Kapos [trustees] who were themselves co-inmates in prisoners' garb, but distinguished by an armband.

I never witnessed that the inmates were beaten by Germans. Large notices in the factory halls proclaimed that it was strictly prohibited to use violence against the prisoners. The attitude

of the Germans in connection with the inmates was a kind one, apart from very few exceptions. Wherever our German workers and the civilian workers as well, could help the inmates in any way they did so. If they gave them food, and so on it had to be done surreptitiously, so that Kapos and SS guards did not notice it, since it was strictly prohibited by the Chief of the SS camp direction. The foremen in halls 4 and 5 where the inmates worked took turns and went every noon to the works kitchen to fetch for their inmates, food that was left over, just as remains of their ordinary distributions were tacitly divided among inmates in their group. To break the long period between the hot meals, given to the inmates at 6 o'clock in the morning and 3 in the afternoon, the Bertha Works at 12 o'clock noon served out to the inmates a thick warm soup from additional plant resources.

Liaison between the Bertha Works and the camp direction of labor camp Fuenfteichen was established by Mr. Schwager.

VII. *The plant police* was established by Major Stein who was also in authority for counterespionage, plant fire brigade and plant air raid precautions. The members of the plant police were for the most part disabled men. They had to be on guard at the plant gates, and do police duty in the interior of the works. I have never heard of any brutality by members of the plant police.

VIII. The activity of the *labor allocation office* was as follows: The demands by the plants on labor forces subdivided into specialized workers, trained workers and assistants, were here collected, investigated and submitted for approval to the armament command [Ruestungskommando]. They then passed to the labor office or the regional labor office. The latter, on the basis of urgency requests by interested offices, such as the Reich Aviation Ministry or Armament Ministry, allocated available labor forces, and gave directions to the firms what class of workers to assign to various productions.

In this manner for instance, we succeeded with the support of the Reich Aviation Ministry, in having Italian military internees allocated to us by the crankshaft combine specially for the crankshaft production.

IX. Finally I may say that the foreign workers and the works management of the Bertha Works were on very good terms. For individual nationalities there were in each camp representatives who established direct contacts with the works management whenever, in their opinion, abuses became apparent. After the capitulation, the confidential agent of the Ukrainians wrote to me expressing his appreciation for the exemplary care taken

of Ukrainians at the Bertha Works and, in particular, that I spared them the wearing of the eastern workers badge in spite of resistance to this by Gestapo and the German Labor Front. This letter has been written in German and in Russian and has been submitted to Mr. Isserman in connection with my interrogation at Nuernberg.

X. With reference to myself I should like to add that on 24 January 1945 I was arrested by the Gestapo, presumably on the instigation of the above-mentioned District Leader Stumpe. The main offense with which I was charged was the dismissal of Senior Camp Leader Rolle. I was also reproached for having been on too friendly terms with the foreign workers. I was designated as a "friend of foreigners." After a few days, however, I was released.

[Signed] DR. EBERHARD FRANKE

EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS EBERHARD FRANKE BEFORE COMMISSION II[1]

DIRECT EXAMINATION

DR. KUEHN (assistant counsel for the defendant Korschan): Witness, will you please give the Court your full name.

WITNESS FRANKE: My name is Eberhard Franke.

Q. And what is your present age?

A. Thirty-eight.

Q. Witness, on 9 March 1948 did you execute an affidavit in Hannover?

A. Yes.

Q. I am now going to show you this affidavit (*Korshan 73, Def. Ex. 2212*).[2] Will you please tell me whether this affidavit is correct or whether you wish to correct or add anything.

A. I merely have to add that I only took over camp questions on 1 October 1943 when the central agency for camps was founded in the Bertha Works.

Q. Otherwise this affidavit is correct?

A. Yes.

Q. I have a few additional questions about this affidavit. On the second page in the first paragraph you say that in the middle of July Mr. Reiff was appointed Krupp's commissioner with special powers in Markstaedt by the management in Essen. Did you, at that time, have the department labor allocation under you?

[1] Complete testimony is recorded in the mimeographed transcript, 3 June 1948, pp. 11176–11234.

[2] Reproduced immediately above.

A. Yes.

Q. Were you specifically in charge of the procuring of labor and were you assigned in that capacity to Mr. Reiff for the production of guns?

A. When Mr. Reiff arrived he automatically was given all departments which had anything to do with the plant. That is, Mr. Reiff could dispose of these departments as he saw fit.

* * * * * * *

CROSS-EXAMINATION

* * * * * * *

MISS GOETZ: What were the functions of Dr. Lehmann?

WITNESS FRANKE: Dr. Lehmann first of all had to deal with the work of Labor Allocation Office A, because this was a completely new office which had to be created from one day to the next because of existing conditions and no expert existed for this work as yet, whereas the office for labor affairs had already existed for some time.

Q. What was the necessity for creating Labor Allocation A?

A. The necessity can be expressed in one sentence. The discrepancy between the need for workers and the possibility of obtaining them, and the need for workers again was caused by the constantly increasing production orders which Essen received from the official Berlin authorities.

Q. I see; and what was the function of Labor Procurement A? Was it supposed to get the workers; was it responsible for the housing of the workers? Did it administer the camps and homes and the prisoner of war camps?

A. I must say here that I can only report for the time I myself was in Essen. At that time it was the task of the Labor Allocation Office A to obtain the necessary workers, to house them, and to feed them, but the questions of housing and supplying food were not exclusively within the authority of Labor Allocation A, because these departments, as we heard this morning, belonged to Mr. Beusch's jurisdiction.

* * * * * * *

Q. Now, on that same page in your affidavit, about three sentences down you say, "In addition the concentration camp always received its share of vegetables, fruit, and other additional food, which was officially bought and procured by the catering department of the Bertha Works." Wasn't that part of your contract with the SS that you would buy the food?

A. I never saw the contract with the SS and our management. I therefore do not know what part the Bertha Works had in supplying the camp with food. I only know that beyond our

duties, we supplied additional vegetables and food and fruit to the camp from supplies which we obtained unofficially at the time.

Q. If you don't know what your obligations were, how do you know you exceeded them?

A. I know from my people who were responsible for this. They told me that they supplied this or that to the camp from our unofficial stocks.

Q. What was your responsibility? How much were you obligated to send? Do you know?

A. I cannot say that. I don't remember.

* * * * * * *

Q. Now, in paragraph 4a, you talk about the fact that the medical care was exemplary, and you discuss the works hospital. How long was that hospital in operation?

A. I can only give you an approximation here. It was either in the fall of 1943 or in the spring of 1944, but I think it was in the former.

Q. Are you testifying under oath that in 1943 a hospital with 500 beds was set up at the Bertha Works?

A. I cannot say that under oath, because I just said I don't know exactly. I only know one thing that, although this hospital was merely a barracks, in which only the offices and the operation rooms were built solidly, this hospital was described as exemplary in the entire area of Lower Silesia, because of its construction.

* * * * * * *

Q. Now from March 1943 to July 1944 no one had the benefit of this exemplary works hospital, did they?

A. Up to the time when the hospital was finished, each camp had a sick room [Revierstube] which was supervised by a physician of the nationality of the people who were in the camp. That is, medical care was provided previously.

Q. You left that out of your affidavit, though, didn't you?

A. That was forgotten.

Q. You mean you didn't deliberately want to give the impression that the hospital was in operation during the entire time? It was just an accident that you omitted the fact that it wasn't established until July 1944?

A. Yes.

* * * * * * *

Q. Now, in your affidavit you state that you never witnessed that the detainees were beaten by Germans. Did you ever observe that they were beaten by anyone?

A. No, I did not.

* * * * * * *

Q. Now, didn't these workers look sickly, thin, undernourished?

A. In the beginning, when the construction inmates were there, one can say that these people were very badly fed and that they looked very bad. These Jewish construction workers were not under our charge, and those that came later did look better.

Q. You mean that the concentration camp inmates in 1944 looked good to you?

A. At any rate, considerably better than those inmates from the construction period.

Q. Well, I suppose there were people who were worse off, but would you say on an absolute basis, that they looked healthy?

A. I can't say it that way.

* * * * * * *

Q. I would like to show you a document identified as NIK–12326, which is a report submitted by Korschan to Houdremont on complaints by the SS about the treatment of concentration camp inmates at Bertha Works, and ask you if it refreshes your recollection. (The document was handed to the witness.)

Does it refresh your recollection?

A. It refreshes my memory insofar as this letter mentioned a large coffee container, and this calls to mind that the plant set up coffee containers in the various plants in order to distribute coffee to their people. But I think this was an action which was taken by the plants on their own, and had nothing to do with the food supply department. I don't know the rest of the contents of the letter, and it does not refresh my memory.

Q. I would like to offer the document as Franke Exhibit 1.*

Now, the other foreign workers that were there, the Czech workers; they were brought there under compulsion, were they not?

A. I don't know that. I don't know that they were brought there under compulsion. They were assigned to us by the Regional Labor Office in Lower Silesia.

Q. Didn't you tell Mr. Isserman that they were in part conscripted?

A. I believe I remember that I told Mr. Isserman that these people were conscripted. If you mean compulsion by that, then of course it must be understood that way.

Q. Now, who reported, who was responsible for reporting, these Czechs for breach of labor contract?

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* This exhibit (NIK–12326) was later redesignated as Prosecution Exhibit 1543. It is reproduced above in section VII C 1.

A. That must have been Mr. Mellentin, in the central office for community camps.

Q. One of your departments?

A. One of my departments.

Q. Do you remember reporting Czechs who failed to return to Essen? Do you recall reporting them to the Gestapo?

A. No. I didn't make any report to the Gestapo. At least I don't recall it.

Q. To whom did you report them?

A. I don't know of any such reports. If such reports were made, they were made directly by this office of Mr. Mellentin; but this does not say that I must have seen them.

Q. He was your subordinate, wasn't he?

A. But he was very independent. This might be explained by the fact that from the office of the plant to the office of Mr. Mellentin was a distance of about 3–4 kilometers.

Q. By the way, how far was the concentration camp from the plant?

A. From the camp to the station at Fuenfteichen it was a walk of 20–25 minutes and from the station to the entrance to the plant, another 20–25 minutes, I would estimate, but I can't tell you that by the minute.

Q. Do you know how the workers got back and forth between the concentration camp and the plant?

A. I know that they were led to and from the factory in a closed group by SS guards. First of all it was the public road to the station, Fuenfteichen, and I think I am correct when I say that a special road was built later on so that the inmates could move from the factory and back without coming in contact with any other people.

Q. You mean they marched back and forth from the camp to the plant every day?

A. Yes.

Q. And they kept the regular hours at the plant—12 hours a day?

A. I don't know anything definite about the working day. I don't know the hours exactly.

PARTIAL TRANSLATION OF VON BUELOW DOCUMENT 256 DEFENSE EXHIBIT 1621

EXTRACTS FROM AN AFFIDAVIT OF LORENZ SCHEIDER, 27 FEBRUARY 1948, CONCERNING CONDITIONS IN THE CAMPS FOR EASTERN WORKERS EMPLOYED BY KRUPP*

I, Lorenz Scheider, born in Essen on 10 February 1896, at present living at Essen-West, Carmerstrasse 50, have been duly advised that I shall render myself liable to severe punishment by making a false affidavit. I declare the following on oath and agree to the submission of this affidavit as evidence to the American Military Tribunal in Nuernberg and to other Allied or German authorities or courts—

Since April 1938, I have been a member of the plant police of the firm of Krupp and today hold the position of supervisor in the plant police. Before entering the services of the firm of Krupp, I was a member of the Prussian State Police. I was released from this post on 15 December 1935 because I was not a member of the NSDAP, but a supporter of the Social Democratic Party, of which I am still a member today.

In 1942, the spring of that year, when the first eastern workers arrived in Essen, I was detailed by Messrs. Wilshaus and Hassel, the chief and deputy chief of the plant police respectively, to take over a so-called eastern workers' camp and, on account of my experience in leadership and the supervision of people, was appointed camp leader [Lagerfuehrer]. From that time onward until the end of the war, 11 April 1945 to be precise, I continued without interruption to hold the post of camp leader of a great variety of eastern workers' camps. During this time, I also spent two short spells as leader of a German camp in which were housed conscripts from other towns directed to work within the firm of Krupp. This work lasted perhaps some 2 months in all. In any case, I can say that, throughout the entire period during which eastern workers were employed by the firm of Krupp in Essen, I was camp leader of eastern workers' camps, and consequently have full and precise information on the general set-up and equipment of the camps, on the living conditions of the camp inmates and on the regulations issued by the German government authorities and the management of the firm of Krupp on the subject of the eastern workers' camps.

In this affidavit, I propose to make a statement only on the period during which the guarding of the camps was the responsibility of the Krupp plant police.

* Extracts from the testimony of Scheider concerning this affidavit are reproduced immediately below.

By way of general introduction, I should like to say that at the beginning of the period during which eastern workers were employed, the circumstances were difficult. This resulted—as I saw the problem—from the fact that, in consequence of the employment of large numbers of eastern workers, the firm of Krupp was encountering new organizational problems to which it had first to adjust itself and to assist in the solution of which it had no practical experience at that time. This fact was made obvious to me as camp leader above all by the fact that the greatest possible variety of the offices of the firm, e.g., accommodations administration, cooperative store, plant police, counterintelligence agent, the Directorate, and the individual plants in which the eastern workers were employed, gave me instructions on the subject. In addition to this, there was the fact that even the authorities not in any way connected with the firm, e.g., the German Labor Front, the Party, and the Gestapo took a hand in the management of the camp. Thus, the work of the camp leader was made considerably more difficult in the early stages by the frequently contradictory instructions issued to him. Despite this, I succeeded in running the camp in such a way as to prevent, insofar as this was possible, the adverse effects of this confusion from affecting the camp inmates. I must, however, emphasize the fact that, when the early difficulties of the "initial" period had been overcome, the conditions became steadily better until finally, all organizational questions connected with the eastern workers' camps were dealt with by one single authority. This was accomplished by means of the establishment of the so-called Main Camp Administration, the management of which, as far as I remember, was taken over by Mr. Kupke on 1 April 1943. Until Mr. Kupke took over the Main Camp Administration, the guarding of the eastern workers' camps was the responsibility of the plant police. As camp leader, I received instructions on the subject from Messrs. Wilshaus and Hassel, as the responsible leaders of the plant police. Insofar as general questions of security were concerned, Mr. von Buelow, the chief counterintelligence agent also issued instructions. These instructions were issued mainly in the form of circular letters from the chief counterintelligence agent. They reached me by way of the plant police. In addition, Mr. von Buelow sometimes took part in conferences of the camp leaders, during which he expressed his point of view on questions of security.

At times, he appointed members of the plant police for special duties connected with the guarding of the camps by the plant police. These men were under my orders. I remember that on isolated occasions, men of the so-called plant squad were also

detailed for this work. During the period when the guarding of the camps was still the responsibility of the plant police, I was camp leader of a total of three camps of which I shall speak later.

The guard detachments appointed from among the members of the plant police for the guarding of the camps numbered between 8 and 20 men, according to the size of the camp. As far as arms were concerned, I myself had a small 6.35 mm. pistol, and in addition I had as many as 4 rifles. I must make my statement more correct by adding that they were not modern machine pistols but old fashioned Mannlicher rifles, the 1870 model. I should like to lay special emphasis on the fact that, throughout the entire period during which the guarding of the eastern workers' camps was in the hands of the plant police, that is, approximately 1 year, not a single shot was fired from these guns.

In addition, I must expressly state from my own personal observations, that the guards selected from the plant police were not guilty of maltreating the eastern workers. Quite apart from the fact that I would never have tolerated this, instructions on the subject had been issued by the plant management under whose orders I worked, to the effect that the eastern workers were to be correctly treated; the beating of workers was forbidden above all else. In addition, Mr. von Buelow, the chief counterintelligence agent drew attention to this matter on every possible occasion, particularly during conferences of camp leaders. I remember Mr. von Buelow's having informed us, during a conference of camp leaders in about October 1942 that the Gestapo had issued an instruction that careless eastern workers and stubborn elements were to be subjected to severe corporal punishment, an instruction which may well be interpreted to include beating. I remember most clearly that Mr. von Buelow stated during this conference that this Gestapo order was not to be executed by us. I know that individual camp leaders stated at that time that it was sometimes necessary to impose severe corporal punishment on the eastern workers in the interests of the maintenance of discipline. Nevertheless, Mr. von Buelow strictly forbade such action. I also know that it was I and Chief Supervisor Theis, who was also a camp leader at that time, who supported Mr. von Buelow more than any others in this view, stating that to administer beatings was no way of training anyone. During this conference, it was also stated that, in case of insubordination on the part of culprits caught in the act of wrong doing, resistance could be broken by force. To this statement, I personally raised no objection since, as a

former policeman, I know that this practice is recognized the world over. I still remember that Mr. von Buelow forbade corporal punishment in the handling of women, even in such cases as the above-mentioned and enjoined us to treat our workers most humanely.

As I have already stated, both I and the guards under my orders always modeled our conduct on these directions. I must admit, however, that in the camps under my control an occasional blow or thump was administered now and again. If this did happen, it was not the outcome of any order received by us, but because even the guards were human, and in the face of the indescribable difficulties their tempers occasionally ran away with them or their patience was exhausted. In order to be able to judge rightly of these happenings, one must know that a large proportion of the eastern workers had been accustomed to totally different living conditions and both as far as food and the satisfaction of their natural human needs were concerned, conducted themselves in a manner which differed considerably from that in which our Germans behaved. Thus, it was very difficult to persuade some of the eastern workers to wash themselves, to keep their eating utensils clean and to use the latrines. It was precisely in connection with such matters that a worker who proved particularly dense would sometimes be given a cuff or a thump to help him make up his mind. There is no necessity to emphasize the fact that in such instances there was never any evidence of excesses which might have led to injuries.

* * * * * * *

As far as *food* during this early period is concerned, I must concede that at the beginning, it left something to be desired. This was attributable to the fact that, in the first place, in view of the large number of new arrivals, there were not enough kitchens, no machines of any kind and not enough trained kitchen staffs. This state of affairs changed quickly, however. I must state that the system had adjusted itself within approximately 8 weeks and the initial difficulties had been overcome. Of the nature of the food, I will speak elsewhere. I should merely like to stress here that the quantities of food allocated to the camp kitchen did, in fact, reach the eastern workers. As camp leader, I attached particular importance to precisely this problem, and I remember, in this connection, having reported three of the domestic staff to the plant police within 14 days and one senior cook at a later date, for having attempted to enrich themselves by taking goods from the stocks destined for the eastern workers. I know definitely that a sentence was later passed on

these four persons by a court of law because of this—as far as I remember—the cook was fined, while the domestic staff were sentenced to from 1 to 3 weeks imprisonment. In addition, the domestic staff was instantly dismissed by the management of the firm.

* * * * * * *

I have carefully read the six pages of this affidavit and have appended the following signature thereto:

Essen, 27 February 1948

[Signed] LORENZ SCHEIDER

EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS LORENZ SCHEIDER BEFORE COMMISSION II[1]

DIRECT EXAMINATION

* * * * * * *

DR. MASCHKE (associate counsel for the defendant von Buelow): On 27 February 1948, you executed von Buelow Document No. 256, von Buelow Document Book 13, Defense Exhibit 1621.[2] I put this affidavit to you. Please look at it and tell us whether it is your affidavit. Do you acknowledge this affidavit as yours?

WITNESS SCHEIDER: Yes.

Q. Do you have any changes or amendments or additions to make to this affidavit?

A. I'll read each point through in detail and then let you know. On page 62 my testimony is that I am entirely informed about the provisions applying to eastern workers—

Q. Please talk slowly and into the microphone.

A. On page 62, first paragraph, last line, with regard to the female eastern workers—that I am entirely informed about the regulations applying to them. I should like to add there—"Only in broad outline," because that was 3 years ago and I cannot keep that in my memory in detail over such a long period.

* * * * * * *

CROSS-EXAMINATION

* * * * * * *

MR. MANDELLAUB: Mr. von Buelow did on particular occasions during the camp leader discussions point out, as you say, that beatings were not allowed, isn't that true?

[1] Complete testimony is recorded in the mimeographed transcript, 10 June 1948, pp. 12113–12187.

[2] Extracts from this affidavit are reproduced immediately above.

903432—51——63

WITNESS SCHEIDER: Insofar as Mr. von Buelow took part in the meetings of the camp leaders and the subject was discussed, then Mr. von Buelow would take that point of view, and would give us instructions to that effect.

Q. Did these meetings of the camp leaders take place often?

A. Yes, weekly, small numbers of camp leaders together with Mr. Kupke.

Q. Did you yourself take part?

A. Yes, in most cases. Once or twice I may not have been able to go because of other commitments.

Q. Did Mr. von Buelow take part often?

A. As far as I remember, twice or three times that I was there, Mr. von Buelow was also there.

Q. In what year was that?

A. In 1944—no, in 1942 and 1943. At the beginning Mr. von Buelow took part in such meetings when I was there myself—that I think was in May 1942. Then toward the end of 1942 or beginning of 1943, I think, we were there together, I mean that Mr. von Buelow and I both attended the same meeting, and perhaps once or twice on other occasions, but I don't remember for certain.

* * * * * * *

Q. Mr. von Buelow has said that the Gestapo gave directives to punish and give bodily punishment to escaping eastern workers and those refusing to work, isn't that true?

A. He didn't give that directive, but he made known to us a directive by the Gestapo.

Q. When did he make that known to you?

A. During a meeting of Krupp people at the Bierhalle. They had an office meeting there, and on that occasion Mr. von Buelow said he had received a letter from the Gestapo according to which eastern workers who refused to work, or would not fall in order, should be dealt with strictly, and I think he mentioned that the Gestapo had issued such a directive.

Q. You understood by that that they would be beaten?

A. Well, not exactly.

Q. You stated it like that in your affidavit.

A. If I said they should be dealt with strictly, I probably concluded that they might receive an occasional kick or something. As a police officer I think I would have been used to such procedure.

Q. What about the auxiliary police. Was this a usual procedure there too?

A. No, it wasn't.

* * * * * * *

Q. You say on page 65 that you admit that in the camps under your jurisdiction it would happen that a blow or a kick was meted out so, in other words, there was some beating?

A. I wouldn't say anybody was beaten, but they were treated harshly. By beating I mean—

Q. Beat him to death?

A. No, but corporal ill-treatment. That is what I would call beating.

Q. But the one to decide on that is the one who was beaten, don't you think so, whether he was beaten or not?

A. I didn't understand what you mean. Will you repeat it?

Q. You say and you admit that a blow or a kick was meted out.

A. Yes.

Q. Now you want to say it wasn't a blow. Was anybody beaten or not?

A. It wasn't direct beating.

Q. Indirect beating?

A. Indirect insofar as he might be sort of urged onward with physical assistance to do something, that he might be gripped harshly.

Q. So, in other words, he was beaten?

A. Well, yes.

* * * * * * *

Q. In your affidavit on page 63, you have said, "I must also state explicitly that the guards from the plant police, according to my own observation, were never guilty of ill-treatment of eastern workers." Now, you speak of six or ten cases in which you made reports, and you even remember two cases where Mr. Kupke sacked the people.

A. Yes.

Q. So one is not quite compatible with the other.

A. I would say that with the words I used I meant to say that direct ill-treatment did not take place. Perhaps it was an excess that one of the guards overstepped his authorities and his power. He may have been provoked; but on the other hand, I had told the people to see to it that the camps were kept clean.

TRANSLATION OF LEHMANN DOCUMENT 565
DEFENSE EXHIBIT 2275

AFFIDAVIT OF CAMP LEADER WILLI LOEWENKAMP, 26 APRIL 1948, CONCERNING CONDITIONS IN THE EASTERN WORKERS' CAMP OF TANK CONSTRUCTION FACTORY 4, AND DENYING USE OF STEEL CUPBOARDS FOR CONFINEMENT OF CAMP INMATES

I, the undersigned Willi Loewenkamp, born on 24 February 1912, residing at Essen-Ruettenscheid, Emmastrasse 29, now Borbeck, Hopfenstrasse 3, am aware that I render myself liable to prosecution if I make a false statement. I declare in lieu of oath that my statement is true, and was made for use as evidence at the Military Tribunal, Palace of Justice, Nuernberg, in the proceedings against Alfried Krupp et al.

I was camp leader of a camp of the tank construction factory 4, in which 70 eastern female workers and 22 eastern male workers were housed. The camp was definitely a model camp. It was ideal in its equipment. I can prove that the camp inmates were contented there.

There was no ill-treatment of eastern workers, men and women, under me. If upon the instigation of some other person, witnesses have testified to that effect, they have not spoken the truth. The instigator of all these false statements is the guard Hoefer, a man for whose mental abnormality proof can be furnished.

As to the iron cupboard* in which allegedly I locked up foreigners it was like this—

After the camp had burned down twice, it was rebuilt the middle of 1944, and on account of the great fire hazard of wooden barracks, it was built of stone. The former plant manager, Anhenn, said at that time that it could not go on like this, namely that supplies procured for the camp inmates should continuously be destroyed by such fires. For that reason he had several strong armored cupboards built (8 mm. armor plate) in order to keep the most important things somewhat protected against thieves and fire in these cupboards. Two of these cupboards were placed in my office, one of them with shelves on which blankets, shoe-soles, laundry supplies, tobacco, and similar things which were reserves for the camp, were stored. The other cupboard without shelves was intended for storing the extra footwear (wooden shoes with two buckles). The cupboard was full to the top with this type of shoes as the foreman of the plant can readily testify. The cupboards were full up of the things just

* Prosecution witnesses testified that this iron cupboard was sometimes used to lock up eastern workers. See, for example, the testimony of Josef Dahm and Fritz Fell, reproduced above in section VIII C 2.

mentioned until the Americans came. In connection with the general looting after the entry of the Americans, the cupboards were broken open and looted. I most definitely deny that a human being ever was locked up in these wardrobes or cupboards by me. If it had been done by someone else, I certainly would have had to know about it. Besides, I did not have the cupboards built, they simply were placed in my office one day without my having anything to do with it. It was clear to me that the cupboards had been procured for the purpose already mentioned.

The holes in the cupboards were to insure ventilation, since food and clothing were to be stored in the cupboard. I already stated that I do not know any details of the construction of the cupboard. I merely had arranged with the plant manager Anhenn that in the future I was to have a theft and fire-proof place for the supplies I had for the camp. Thus, if the iron cupboard was made in the plant, it is very possible that it was made for that purpose.

In any case, it is entirely out of the question that such a cupboard was built in order to lock up Russian workers in it. Whether the reported measurements of the cupboard are correct, I cannot say. I have already stated what I used the two cupboards for and the things they were filled with. That men or women, and at that pregnant women, should have fitted into the cupboard and supposedly had been locked up in it for days, is impossible. Moreover, I consider it entirely out of the question that it was possible to lock even two people into one single space. This already shows the baselessness of this assertion. I would be interested to know who was supposed to have been the pregnant Russian who allegedly had been locked up in the cupboard.

Of the incident during New Year's night 1945, described by Dahm, I know nothing. During New Year's night 1945, I personally was not at the camp at all. Hence this deed could only have been perpetrated by Hoefer and Gerlach. Here, too, I consider it out of the question that it should have been possible from the viewpoint of space to lock three people at once in the cupboard.

That occasionally I helped Russian women give birth is something I am proud of. It frequently happened that births took place suddenly without the proper aid being on hand, especially in cases where the women had kept the pregnancy secret. I am convinced that I have been of considerable help to many a Russian woman. Neither a mother nor any of the children died later on. In the cases of birth I called in two eastern women-workers who had some experience. As a rule pregnant

women were given light work in the camp until shortly before they were to be confined and were then taken to the Krupp hospital for confinement where they were given the same care as the German women. Later on they were in good time brought to the delivery-rooms which had been especially set up for the purpose in Voerde,* where they were assisted by trained helpers from their own ranks. But it also happened that women who had kept their pregnancy secret, suddenly gave birth. They were then to be sent to Voerde following the birth for rest and recreation during the nursing period. But they did not want it. To accommodate these women, the plant manager Anhenn told me to fix up a room at the camp where such women with their children could stay. To help the women and to watch the children, an eastern woman-worker, over 55 years of age, was available there. I myself took great pains to get milk for the children. I used every means possible to obtain milk, cereals and other suitable food for the children and I was entirely successful in procuring these things for the children.

It is not true that I deprived camp inmates of their allotted ration to punish them for trivial offenses. Occasionally, to keep order in the camp, and make sure that the rooms were kept in the proper hygienic conditions, I postponed the bread distribution. If in the morning the rooms and toilets were not in order —the women often threw sanitary napkins under the beds or in the toilets. I gave orders that the occupants of these rooms were not to receive their bread ration until evening. The result of it was that within 8 days the rooms and toilets were in perfect order in the morning. I really had a reason, for the sake of order and discipline, to deprive the camp inmates of their food, then it was done because this was the only possibility to maintain order at all in such a camp. However, I always gave the food to the people later on. Thus, it cannot be said that they were deprived of food in the real sense of the word.

The above-mentioned Gerlach was a man who easily became excited, and as far as I know also was not well liked; however, I had not noticed that he was brutal. I know that Hoefer and Gerlach did not get along well together. While I was sick in the hospital several months, Hoefer told me that Gerlach had beaten some eastern workers. When this became known at the plant, Gerlach was dismissed. Hoefer never told me anything about eastern workers having been locked in the cupboard.

Essen, 26 April 1948

[Signed] WILHELM LOEWENKAMP

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* More extensive details concerning the children's camp Voerde are given below in section VIII E.

EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS JOSEF BECKMANN BEFORE COMMISSION II*

DIRECT EXAMINATION

* * * * * * *

DR. POHLE (counsel for the defendant von Buelow): Are you an employee of the Krupp firm, Mr. Beckmann?

WITNESS BECKMANN: Yes.

Q. For how long have you been working with Krupp?

A. I have been working there since 1917.

Q. Are you today also an employee of the Krupp firm?

A. Yes, even today.

Q. What is your position today?

A. Now, I am a department chief.

Q. In what department?

A. In the office for labor matters.

Q. What was your position during the war at the Krupp firm?

A. Until August 1940—I was deputy office chief, until February 1944 office chief; and then I was chief of a department.

Q. At that time were you also already in the office for labor affairs?

A. Even at that time.

* * * * * * *

Q. Now, Witness, did the office for labor affairs, where you worked, also deal with the following-up of so-called labor contracts which had been broken by the workers?

A. Yes, but that occurred only since the date when State agencies dealt with the breaking of labor contracts.

Q. Are you informed how the labor contracts that were broken were followed up before that period, that is, before these State measures were issued that you spoke about?

A. Before this period punishment for the breaking of labor contracts was exclusively a matter of the plants.

Q. Did the plants themselves have an interest also to prevent the breaking of labor contracts?

A. Yes, they had an interest, after all, that a certain amount of work was performed for the wages that were paid.

Q. Now did this plant settlement remain unchanged until the war broke out?

A. No, because shortly before the war broke out the State intervened and demanded that the plants inform the State of all

* Complete testimony is recorded in the mimeographed transcript, 15 May 1948, pp. 8121–8166.

flagrant violations of labor discipline and that these reports be sent to the Reich Custodian for Labor.

* * * * * * *

Q. Well, that brings me back once again to the period before the State intervened in those matters. On the strength of what regulations were shirkers and those breaking of labor contracts prosecuted by the plants at that time?

A. On the strength of regulations issued by our firm itself, and these regulations were the same for all the plants.

Q. How had these regulations of the firm been laid down?

A. These regulations for the punishment of the breaking of labor contracts had been laid down in the service regulations of the plant, and in the so-called penalty regulations.

Q. Were these regulations brought to the knowledge of the members of the plant?

A. Yes, these regulations were brought to the knowledge of newly hired workers and employees when they entered the plant.

* * * * * * *

Q. Now that brings me back to the period when the State took up the question of shirking and the breaking of labor contracts. According to your knowledge of matters, how did the question of shirking develop as the war went on?

A. During the war shirking increased steadily, even in the very first period of the war.

Q. What was the reason?

A. The main reason was that the number of old Krupp workers was no longer sufficient to meet the new requirements, and therefore the Labor Office constantly had to meet requests for more new laborers. And these new laborers could only be brought in by so-called labor conscription.

* * * * * * *

Q. In what manner was State support given for the maintenance of labor discipline?

A. By the issuance of decrees. On the strength of these the breaking of a labor contract was made punishable.

Q. What State agencies issued these decrees?

A. Well, the situation was as it often was during the war. All sorts of State agencies wanted to have their fingers in the pie. And that was the reason also for the many contradictions in many of the regulations issued.

Q. Can you give the names of such State agencies?

A. Well, first the Reich government, by means of statutory measures. The Ministry of Labor, which intervened by decrees.

Later the Plenipotentiary General for Labor Allocations, Sauckel, had his word to say, too. We had to deal also with the various special Reich trustees; with the representatives of the Reich trustees. Towards the end of the war we had the intervention also of military agencies, the army corps headquarters; and, finally, the Ministry for Armaments and Munitions.

Q. Were there also regulations issued by the Gestapo?

A. Yes, because of the war, the breaking of labor contracts was considered a sort of desertion, and accordingly measures were taken to prevent such desertion and to punish it.

Q. What have you in mind when you say that the breaking of labor contracts was particularly punished by the Gestapo?

A. When I say that I mean particularly the measures taken by the Gestapo concerning the foreigners, and especially the eastern workers, the Czechs and Poles. The Gestapo dealt with those nationalities in a particular way.

Q. Mr. Beckmann, of what nature were those measures provided for by numerous State decrees and regulations?

A. Certainly I would go into too much detail if I would deal with all these matters individually. Anyhow I will have to mention them again in a little while, and just now I would only like to say—

Q. Well, Witness, you only have to answer the question; that is sufficient, you know.

A. Well, what I would like to say is that you have to make a distinction between two different matters. The service regulations providing punishment, and the State measures.

Q. What kind of interior regulations were there in the plant?

A. The plant with its own resources had to maintain order in the plant while complying with the State decrees, by supervision, information, and so on. But if necessary they also were to mete out punishment in the form of fines, for instance, or the withdrawal of additional food rations, and so on.

Q. Now, what happened if the means at the disposal of the plant were exhausted?

A. Then they had to report to the State agencies. In the case of Germans and western workers they had to make these reports to the representative of the Reich trustee, while in the case of the other foreigners the report had to be forwarded to the Gestapo, as, for instance, in the case of the eastern workers.

Q. With respect to this differentiation, did any changes take place later on?

A. Yes. From the end of 1942, at the instance of the special trustees, reports on all foreigners had to go to the Gestapo.

Q. In other words, also the western workers?

A. The western workers also.

Q. Was there an obligation for the plant leader to make such a report?

A. Yes; certainly.

Q. How had this obligation been worded, and in what decree?

A. In the various regulations and decrees.

Q. Was the plant leader punished if he did not comply with this obligation?

A. Not at the beginning, but of course the plant leader who did not comply with the State regulations violated his duty.

Q. You said that at the beginning there was no punishment if he did not comply with the obligations, but did that occur later on?

A. Yes, later on, Regulation No. 13 issued by Sauckel (*von Buelow 111, Def. Ex. 1320*)* threatened plant leaders with punishment if they failed to make a report.

Q. Can you remember when this Regulation No. 13 was issued by Sauckel?

A. Yes, in November 1943.

* * * * * * *

Q. What did the Gestapo do?

A. The Gestapo meted out punishment, such as commitment to a labor disciplinary camp, or, in particularly serious cases, commitment to a concentration camp.

Q. Was there a so-called admonition in the case of the Gestapo also, or a reprimand?

A. Even that occurred, yes.

Q. And was the procedure you described, the same when German or western workers were involved?

A. As far as I could judge, that was generally the case.

* * * * * * *

Q. A little while ago you referred to Regulation No. 13, and I think that we have to go into this matter a little bit. Can you tell me whether the State regulations which were issued prior to this decree, and which you brought to the attention of your plant, brought about any effective combating of shirking and the breaking of contracts?

A. No, that was not the case.

Q. Why?

A. Because the State procedure was absolutely inadequate. The authority of the Reich trustee was comparatively limited, and through the intervention of the courts the whole procedure was extremely slow.

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* Reproduced above in section VIII C 1.

Q. Was that altered by this Regulation No. 13?

A. No, one can't say that. On the contrary, the situation developed in the opposite direction.

Q. Well, what direction do you mean?

A. The main reason was that Regulation No. 13 in practice was not very easy to apply and one could see that it had been drawn up around a conference table.

Q. Why was Regulation No. 13 difficult to apply?

A. You only have to look at this regulation to see that in some respects this was a masterpiece of bureaucratic red tape. There you have first of all the penalties. Here in detail it has been established how far the plant manager had to go. In an isolated case of unpunctuality a reprimand should be given. In the case of a repetition of the offense, fines could be inflicted up to the wages of one day; in serious cases up to the wages of one week.

Q. Mr. Beckmann, when you describe it in that way, then there were quite considerable powers in the hands of the plant manager?

A. Well, if you put it that way, you could consider them considerable powers; but it has to be taken into consideration that it was not at all simple to mete out punishment if the rules of procedure were applied.

* * * * * * *

Q. What was the position of the plant manager towards these difficulties you have just described?

A. The plant managers again and again objected, saying that they personally had other things to do, matters which were more important for them. They had to see to it that the production dead lines were complied with, but on account of the strict procedure rules they were obliged to deal with these matters personally or to have their deputies deal with them. The result was that as time went on the plant managers took a smaller and smaller interest in those matters and let them go on, until eventually one day generally things just blew up.

Q. What do you mean, things just blew up?

A. Well, that was when it was found out that the plant could not comply with the established dead lines because it did not have enough labor. An adequate allocation had been made to the plant, but part of the workers were assigned to the plant only on paper.

Q. And what did the plant managers do when that happened?

A. The plant manager had to face an extremely difficult situation. In every individual case there was the danger that the state agencies which investigated matters would ask for proof

as to what had been done so far against the shirkers. Again and again it happened that the plant managers then had to submit long lists of persons absent from the plant, who had been missing already for months, and no steps at all had been taken against them. In this emergency, they asked that stronger state powers, that is the Gestapo, be called in and that they be helped immediately.

Q. To whom did they make these demands?

A. The plants made these demands to the office for labor affairs.

Q. In other words, to the office in which you were working?

A. Yes.

Q. And what did the office for labor affairs do then?

A. We had no possibilities to comply with those demands, and therefore we were constantly obliged to direct the plants through the channels prescribed by Regulation No. 13.

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Q. Mr. Beckmann, before the recess we spoke about the fact that the office for labor affairs received a form from the plant managers. Was this, for instance, a form as is shown on page 44 of the prosecution document book 34–A,* which is in your hands? Do you have that document book before you?

A. Unfortunately, I left the document book upstairs.

Q. I will show it to you.

A. Yes, that is the form.

Q. Then those were the formal reports of the plant managers to the office for labor affairs.

A. Yes.

Q. What did the office for labor affairs do then?

A. They forwarded these reports to the Reich Trustee for Labor if it was a case of Germans; and in the case of foreigners, to the plant police. Before that, however, an investigation was made whether the report was correct in every respect.

Q. What did the plant police do with the report?

A. They forwarded the report to the Gestapo.

Q. Was that a government regulation?

A. Yes, it was.

Q. Was there a distinction in the treatment and in the punishment of cases of German workers and foreigners within the plant?

A. Not in general. However, there was one deviation from this rule—that was in cases of eastern workers, Czechs and Poles. Reports in those cases had to be made earlier, and also

* Document NIK–13893, Prosecution Exhibit 1085. Parts of this document, including the form referred to, are reproduced above in section VIII C 1.

the measures that the plant had to take against them had to be more severe.

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Q. Did the office for labor affairs further see what measures the government agencies finally took?

A. Yes.

Q. Do you also have details of these things in the office for labor affairs, concerning the extent to which the government agencies took measures in such cases of shirking and contract violations?

A. Yes, during the same period that I was just talking about —that is, May 1939, to the end of January 1945—convictions and punishments were made in 2,039 cases. Among them, 311 cases were foreigners.

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CROSS-EXAMINATION

MISS GOETZ: Mr. Witness, you testified that from May 1939 to 31 January 1945 you made, according to directives, 5,426 reports to State authorities. To what State authorities were these reports made?

WITNESS BECKMANN: To the Plenipotentiary for the Reich Trustee for Labor, or to the plant police, who then forwarded these reports to the Gestapo. Now, these were all reports which came in from the plant and were sent on.

Q. How many of these reports were made to the Plenipotentiary for Labor Allocation?

A. None to the General Plenipotentiary for Labor Allocation, but to the Reich Trustee for Labor. My documents unfortunately do not show how many reports were sent to the Reich Trustee, but I could figure that out roughly, because the reports for foreigners went all of them direct to the Gestapo; therefore, I think the ratio will be the same as I mentioned before, 5,426 probably to the Reich Trustee, 747 in all probability, to the Gestapo.

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Q. Now, you say these reports were submitted regularly to the members of the directorate, do I understand you?

A. Yes, that is correct.

EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS JOSEF LORENZ*

DIRECT EXAMINATION

DR. POHLE (counsel for the defendant von Buelow): Mr. Lorenz, please tell the Tribunal your full name?

WITNESS LORENZ: Josef Lorenz.

Q. Where do you live?

A. Kettwig on the Ruhr, Augustastrasse 3.

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Q. When did you enter the firm of Krupp?

A. In 1934, first of all on security duty. In 1937 I was in the investigation department.

Q. Not so fast and talk into the microphone. You entered Krupp's employ in 1934?

A. Yes.

Q. In what department?

A. In security duty.

Q. What do you mean by security duty?

A. The security duty in the plant police.

Q. You haven't said that you were in the plant police.

A. Well, I was.

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Q. Will you please explain briefly to the Tribunal what the jobs of the investigation department of the plant police were?

A. The investigation department had purely criminal police duties. Wherever it was ascertained that a crime had been committed, the plant police had to investigate.

Q. You say the investigation department was in charge of this. Now, after it had been worked on the matter, what did it do?

A. The investigation department looked into the matter in detail, inspected the scene of the crime, and after it had concluded its investigation, passed the matter on.

* * * * * * *

Q. Can you list the individual punishable acts that were investigated and settled by the investigation department, can you classify them in any way?

A. Yes. First of all there were thefts and other criminal acts.

Q. You spoke of criminal acts. Does that include assaults?

A. Yes, that was a civil offense, and such assaults did take place. Two friends would have a fight, or perhaps a foreman has

* Complete testimony is recorded in mimeographed transcript, 19 and 20 May 1948, pp. 8480–8496, 8574–8632 before the Tribunal; and 12 June 1948, pp. 12384–12407 before Commission II.

a fight with an apprentice. That happened as a consequence of someone's using a rough tone of voice to someone else. A steel factory is not a textile factory, in the steel and iron factories, there were frequent fights.

Q. These assaults of which you were speaking and of which you say that in a steel mill they were, of course, more frequent than that would happen in a textile plant. Did they happen very often?

A. No, these were individual and infrequent cases.

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Q. What happened if mistreatment of foreigners was reported to the plant police?

A. Exactly what happened when reports came in about Germans, no exceptions were made.

Q. Are those the main classifications of criminal offenses, namely, thefts and assaults?

A. Yes, these are the main classifications.

Q. What other groups of punishable acts were investigated by the investigating department of the plant police?

A. In the course of the war it happened that offenses were committed against the State Police laws. This, of course, was an affair of the plant police which they had to investigate; so far as counterintelligence questions were concerned they were taken up by Mr. von Buelow.

Q. You are talking now of so-called political offenses if I understand you correctly?

A. Yes.

Q. Now, what about sabotage and espionage?

A. I was about to mention that. Those matters were under Mr. von Buelow, the chief counterintelligence agent.

Q. Now, you are talking about Mr. von Buelow in connection with espionage and sabotage, aren't you?

A. Yes.

Q. Did the plant police also follow up questions of shirking and breach of contract?

A. At first the plant police had very little to do with those matters, but after large numbers of foreign workers arrived, it soon became clear that idling was becoming much too frequent and in these cases the plant police took measures.

Q. How?

A. In the case of German workers the matters were reported to the Reich Trustee of Labor. In the case of foreigners the matter was referred via the plant police to the Gestapo.

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Q. You said that as the war proceeded the number of offenses increased and if I understood you correctly, you said that both criminal and political offenses increased and this you traced back to the war situation. In the cases of breach of contract was there a similar development?

A. Yes, that became particularly evident. People fled to the country, both foreigners and Germans fled to the country, perhaps to escape the bombs or to get better food.

Q. How did the plant police come in contact with this question of breach of contract? What was the arrangement within the plant? You said before that the reports went in part to the Reich Trustee of Labor and in part to the Gestapo. Now, I would like to know what the arrangement was inside the plant?

A. For breach of contract the plants were primarily in charge, the reports of course were signed by the plant.

Q. Let me add this question so that we shall be quite in the clear here. This concept of breach of contract, that includes both breach of contract and idling?

A. Yes, it does. The plant as I said was competent, the plant manager and the spokesman in the plant signed such a report, reporting such an offense. This report was sent to the office for labor matters, which then sent this report to the plant police because there was a regulation in the plant that only the plant police could communicate with the State authorities.

Q. A moment please, Witness, what State regulations are you speaking of or were these regulations on the part of the firm?

A. No, these were governmental regulations.

Q. Do you know what agency of the government issued these regulations?

A. No, I can't tell you, but I do know that that was the procedure and that we had to report in this way.

Q. Did the plant police when these matters reached them along the channels you have described, conduct its own investigation?

A. No, we did not conduct further investigations of such breach of contract. We were simply the intermediary office in this.

Q. That is to say that you relied on what the plants told you?

A. Of course, the plant manager was responsible for that.

Q. Did the so-called office for labor matters also investigate the matter?

A. All the cases were investigated by that office before it passed them on.

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Q. And what did the plant police do as a result of its investigations?

A. It passed the matter on to the competent authority. But let me state here that for years at the firm there was a criminal police official stationed at Krupp who himself examined any question on the spot. During the last 2 years of the war this man was removed because of lack of personnel.

Q. The plant police then in investigating such criminal offenses in the plant had a sort of police function?

A. Yes, it was a purely police function. We were auxiliary and assistants to the police and had the capacity for such police auxiliaries.

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Q. In the cases of these offenses, did the plant police itself have a right to make a special motion to the police—couldn't it apply that a specific penalty be imposed?

A. No. Under no circumstances. It sometimes happened that in our reports we said something like we ask that this matter be taken up, but any such thing as any specific request for a specific punishment, no such thing ever existed.

Q. Well, now, for instance, when the plant police wrote to the Gestapo and said, "We ask for severe punishments," that was not a formal application?

A. Not in the sense that the Gestapo was supposed to pay any attention to this. Moreover, the Gestapo wouldn't consider such a thing. What the Gestapo did, it did on its own hook, and the plant police had nothing to do with it.

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Q. Now, Mr. Lorenz, we have already discussed to whom the plant police gave its reports. You have described what happened in the cases of breach of contract and of idling. To whom were sabotage and espionage cases reported, of which we also spoke a while ago?

A. Sabotage and espionage cases were under the province solely of Mr. von Buelow, the chief counterintelligence agent, who was the only one who could take steps in this.

Q. I understand you to say that all cases of sabotage and espionage were reported by the plant police to the counter-espionage of the Gestapo?

A. Yes.

Q. And to whom did the political offenses go, what you called offenses against the law, malicious undermining of Germany's war strength, to whom were those reports sent?

A. These were reported exclusively to the Gestapo.

Q. Now, Mr. Lorenz, in connection with espionage and sabotage, you spoke of the chief counterintelligence agent. Was this his sole contact with the plant police?

A. Yes.

Q. Who was responsible for the military security of the plant?

A. Likewise the chief counterintelligence agent, Mr. von Buelow.

Q. Was the plant police at his disposal for carrying out these tasks?

A. Yes.

* * * * * * *

Q. Now, Witness, we have discussed the general questions, and I must now discuss with you a series of documents which the prosecution put in volume 34–A. I shall have this volume handed to you. Will you please turn to pages 12 and 13 in this volume? Those are English pages, 13 and 14. This is Document NIK–13887 Prosecution Exhibit 1079.[1] Here you find three letters dealing with shirking eastern workers. The first letter on page 13 seems to me to be very instructive regarding the procedure you just described. Do you have it?

A. Yes.

Q. Now, please tell the Tribunal, on the basis of this practical example here, about the procedure that we have been discussing critically so far. What is the issue here?

A. But you can see from the upper right-hand corner that this is a letter from repair shop 6, which is sending this letter to the BfA [office for employees' affairs]. And we see that a worker, Boguslav Szarawarski, shirked on the days listed.

Q. Please explain what this term "BfA" means.

A. That is the office for employees' affairs. Mr. Wolf was in charge of it. The shop writes that the Pole stayed away from work on the following days, and it says, "We request that further steps be taken so that S. comes to work regularly." It is signed by the plant leader and also, I see, by the "Vertrauensrat".[2]

Q. One moment. What is this "Vertrauensrat?"

A. This represented the employees and workers of the firm. So we see that not only the plant leader but also the "Vertrauensrat" agreed that this report should be sent in.

Q. Now, up at the top at the right, I see a note written by you, initialed "LO"; is that your initial?

A. Yes.

Q. And according to this note the Pole was sent for 56 days on 18 September 1943, to a punitive labor camp.

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[1] Reproduced above in section VIII C 1.

[2] The "Vertrauensrat" was a part of the machinery of the German Labor Front organized and headed by Robert Ley. Ley committed suicide after indictment in the IMT case. The German Labor Front took over the property of the German trade unions which were abolished shortly after Hitler came to power.

A. Please in this and in all these cases keep in mind that this is a note I made on what I found out from the officials, as to what these officials had decided upon in the case. This doesn't mean that the plant police made this decision, but the government officials; and in this case it was the Gestapo who sent Szarawarski for 56 days to the punitive labor camp.

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Q. Does that mean that these notes that you put on such file memoranda were simply there for the sake of information about the outcome of the proceedings?

A. Absolutely.

Q. Or do these notes mean that these were decisions reached by the plant police?

A. Not at all; we were not able to reach such decisions.

Q. Likewise on page 13 we find a similar note in a case involving the Widia plant. Did you write that note too?

A. Yes.

Q. What did that note show?

A. This is different to the foregoing one. When I wrote this note, "arrested by the authorities", it means information came from outside, from the authorities, and in this case undoubtedly from the police. I was told these eastern workers had been arrested by the police; and when I asked why, I found out, as you can see from the final sentence here, that this man was arrested by the department Aurich, a Gestapo department, through Mr. Schmidt, on account of his behavior hostile to the State.

Q. Then you mean to say that in this case the foreign worker in question was arrested by officials outside the Krupp firm and that you simply noted that fact down?

A. Yes, that is the case.

Q. I also see the letters "KZ" [concentration camp] on this file note. What does that mean?

A. Yes, that also originated from me. When I heard how the matter had turned out, I also found out that the man had been turned over to a concentration camp, and more or less by way of exception I drew up this note very briefly. I didn't even date it, but at any rate, I did find out that the eastern worker had been sent to a concentration camp, and that is what I noted down.

* * * * * * *

Q. And why did you have the letter pass through Mr. von Buelow's hands?

A. Well, it did happen sometimes that we sent these letters through Mr. von Buelow, because it was our opinion that Mr.

von Buelow might be interested to know that these eastern workers were loitering around. It seemed to me that for counter-intelligence or security reasons it might be important to know if an eastern worker was loafing around town, perhaps getting in touch with foreign agents, and thus constituting a danger to the plant. Consequently, in exceptional cases I did let such reports reach Mr. von Buelow. Actually, of course, Mr. von Buelow had nothing to do with the matter.

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Q. Here in these documents, in these examples which the prosecution has collected, I frequently find the words "Buchenwald concentration camp"; or it says "concentration camp". What does that mean?

A. These, as I said before, are simply my little file notes on how the matter turned out.

Q. And when it says, "concentration camp requested"?

A. Well, in Essen there was only a branch of the Gestapo Office. It could not assign anyone to a concentration camp. The most that that branch office could do was to make a request. The Regional Headquarters in Duesseldorf or the Reich Security Main Office in Berlin were competent. A branch office could not send a person to a concentration camp, so they investigated the matter and made a recommendation. The actual sentence was passed later.

Q. Am I correct in understanding you to say that when we find the words, "concentration camp requested", that is a request from the branch Gestapo office addressed to the Regional Headquarters in Duesseldorf or the Reich Security Main Office in Berlin making this recommendation?

A. Yes.

Q. And did the plant police make such a request?

A. No, not at all. As I have said often enough, the plant police had nothing to do with these matters.

Q. And that you know for sure because you were the author of these notes?

A. Yes, I am very sure of that. Moreover, these occurrences happened rather frequently, the matter is perfectly clear for me.

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Q. Now we come to the document on page 19 in the book. This is Document NIK–13885, Prosecution Exhibit 1081.* As you can see here, this is a letter from the plant police to the Gestapo dealing with the subject of breach of contract and also with other offenses on the part of foreign workers. Now, I am interested particularly in the letter dated 10 February 1945 on

* Reproduced above in section VIII C 1.

page 19. Here I find the sentence, "The strongest measure should be taken against Ricci". This note was written by you.

A. Yes, there is no doubt about it, that is my initial, "LO."

Q. What do you have to say about it?

A. I see that this Italian worked a total of 18 hours during the month of December and worked 53 hours in January, in other words, 71 hours in 2 months, and that is really first-class loafing. I also observe that he was caught using a stolen stamp on his food card. In other words he could get to eat without working. Now a fellow like this must be dealt with pretty sharply.

Q. Are you still of the view even today that this man could not have been let off simply with a warning?

A. Well, if a man normally has to work 10 hours a day and he gets away with working 71 hours in 2 months, that is really a very gross case of loafing.

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Q. Take a look now at page 32, Document NIK–13867, Prosecution Exhibit 1084.[1] Here is a letter to the Gestapo to which is appended a report from tank construction plant 3—in other words, a branch of the firm—of 14 February 1944, regarding the fray between a French worker, Ledux, and the German foreman Hagemann. The plant police sent the report to Mr. von Buelow. Now, how do you explain this fact?

A. Well, now, this is a pretty serious case. If the French worker hits the foreman, that is a serious affair. When it comes to having the foreman hit by workers, I naturally supposed it to be a matter that might interest von Buelow.

Q. You mean in his capacity as counterintelligence officer?

A. Yes, of course. Events of this sort make you think, make you wonder.

Q. Now here the plant police took action on the request of the factory. Tank construction plant 3 reports to the plant police and asks the plant police to take measures. Was this frequently the case, namely that factories sent in this sort of report?

A. Yes, of course, it happened frequently, that the factories turned to the plant police.

Q. What did the plant police do with such a report?

A. In the first part, up at the top, you will see that we sent only a copy of the report, with a request that the matter be noted and that further steps be taken.

Q. On page 34 we find Document NIK–13893, Prosecution Exhibit 1085.[2] These are some reports from the plant police to the

[1] Ibid.
[2] Ibid.

Gestapo regarding breaches of contract by foreign workers. Tell us, please, briefly what you have to say about these documents, keeping in mind what you said yesterday at the beginning of your testimony regarding the treatment of workers guilty of breach of contract.

A. These reports are on special forms that were printed precisely for this purpose. These forms were drawn up so that entries could be made systematically.

Q. That's enough, Witness. Now, were the forms the same for foreign workers as for Germans?

A. Yes, they were all the same.

Q. Now where did the reports of these firms go to?

A. In the case of Germans they went to the Reich Labor Trustee.

Q. No, I mean inside the plant, who made the report, and where was it sent?

A. It went to the BfA, the office for employees' affairs.

Q. And who handled the matter?

A. The factory.

Q. First the factory made the report, then it went to the BfA, and where did it go from there?

A. The BfA sent it on to the Reich Labor Trustee. In the case of foreigners the plant police sent it to the Gestapo.

Q. So the plant police sent it to the Gestapo. What did the plant police have to do with this?

A. The plant police was nothing more than an intermediary office, because there was a regulation that the plant could not communicate with the Gestapo directly but only the plant police could do so.

Q. So the plant police was only an intermediary office. Are you sure?

A. Yes, sir.

Q. Here again, Mr. Lorenz, I frequently find a note to the effect that Mr. von Buelow was informed of what the plant police had done, for example, on page 37, or on page 40, you will find—

JUDGE DALY: Dr. Pohle, could I ask the witness something that I don't believe I understand. At the bottom of page 35—will you ask the witness what this means?—at the bottom of page 35 it says the Dutchman Jan Cremers, born 28 August 1906 in Maastricht, Factory No. 860507, was arrested on 15 September 1944 and expelled as unreliable foreigner. What does that mean, "expelled as unreliable foreigner"?

DR. POHLE: Witness, the judge is inquiring about the passage to be found at the top of page 37. Do you have the passage?

WITNESS LORENZ: Yes.

Q. Here Wilshaus, chief of the plant police, says that the Dutchman Jan Cremers was arrested on 15 September 1944, and was expelled as an unreliable foreigner. His honor would like to know from you just what this means.

A. This is quite clear. This is one of those brief reports of mine which always show that the man was arrested outside the plant by the police, and I have simply stated here what happened to the man.

Q. Wait a minute, Mr. Lorenz. I think his honor's question is concerned with the meaning of the statement that he was "expelled as an unreliable foreigner."

A. Well, now, that I don't know. That is the way I got the report from higher quarters, namely, that the man was not returning to Krupp but was expelled, but I don't know what the details were.

Q. This was a Gestapo measure?

A. Yes.

Q. Did it frequently happen?

A. Yes, it did happen a few times.

Q. A few times, you say?

A. Yes, but not frequently.

Q. And who made these decisions?

A. Only the Gestapo.

Q. Did the plant have any influence in such an affair?

A. None at all. We ourselves were rather surprised at such outcomes as this.

DR. POHLE: May I proceed, Your Honor?

JUDGE DALY: Oh, yes, go right ahead. Thank you very much.

DR. POHLE: You said, on page 37, and on page 40,—we were talking about the fact that Mr. von Buelow subsequently found out about the measures taken—what is the point of this subsequent informing of Mr. von Buelow?

WITNESS LORENZ: As I said, these reports were sent to Mr. von Buelow for his information. Actually Mr. von Buelow had nothing to do with the matter.

Q. Did this happen regularly?

A. No, simply now and then. Even from the examples I have before me, I can see it happened only occasionally.

JUDGE DALY: I'm sorry, Dr. Pohle, but on the top of page 36, in speaking of the Pole Szarawarski, it says he is confined since the 13th of this month in a punitive workers' camp for 56 days. And then down below that it says that the measures the shop can take are exhausted, are not sufficient for the case, and he was reported to the Gestapo. Now, then, tell me—probably the

witness could tell—why in the Krupp plant he was confined for 56 days in a punitive workers' camp by the Krupp people before he was turned over to the Gestapo.

DR. POHLE: Did you understand the question, Mr. Lorenz? Please answer it. This is on page 37, the case of the Pole Szarawarski who has already featured in a document we have discussed. Do you have the passage?

A. Yes. This seems to be an erroneous connection here. It seems as if the letter at the top of the page doesn't refer to the same thing as the one at the bottom. There must have been something about Szarawarski before.

Q. I am not so sure of that, Mr. Lorenz. On the next page we find the report of the plant.

A. Oh, yes; you're right.

Q. This note at the bottom must refer to Szarawarski because it says, "sent with the request to report S"—that must mean Szarawarski—"to the Gestapo for punishment."

A. That is so. The form on page 38 concerns the address and the note at the bottom of page 37 was sent to the Gestapo. The upper part is simply a statement of what the Gestapo did.

Q. Then the correct order in which these things are to be read is, first of all, the report from the plant, which on those forms is at the side, as we have just mentioned?

A. Yes, and to look at the dates. We wrote on 13 February to the State Police and received on 21 February a report of what had been done.

Q. In other words this report should be read backwards to a certain extent?

A. Yes.

Q. To clear it up once more. First you have the report from the plant. Then you have the notification of the plant police to the Gestapo for punishment; and then you have Wilshaus' note that the Gestapo has sent Szarawarski to a punitive labor camp.

A. That is right.

Q. Now, was the punitive labor camp in question here, the special camp Dechenschule?*

A. No, if it had been I should have noted that. It says, "Sent to a punitive labor camp"—which one it is, I don't know; it was somewhere in the neighborhood of Essen. In Muehlheim or Essen itself. There was also in Essen itself a punitive labor camp to which such workers were sent.

Q. Why was he so punished? Can you find that out from the form here?

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* Considerable evidence concerning the Dechenschule camp is reproduced below in section VIII D.

A. Yes, it can be seen here; his absences from work are listed.

Q. Then I see the note "other offenses" on this form; on page 38 at the bottom.

A. Yes, this is very interesting. This shows that this man has been punished once already; it is therefore a case of a repetition of an offense.

Q. Now you know that von Buelow after a certain date was the so-called expert concerning breaches of working contracts at the Cast Steel Works. Was it in this capacity that he was subsequently informed of this matter by the plant police?

A. Actually one of the objects of this communication was to refer to breaches of working contracts in the firm, because Mr. von Buelow was concerned with such matters. That is why we sent this report to him also.

Q. Now, Mr. Lorenz, take a look at the document on page 48.

JUDGE ANDERSON: Just a moment, Dr. Pohle, before you leave that. In this report that this witness now says is constructed backwards, in the original report dated 25 January 1944, to which Judge Daly called attention, it says under 1d that the Pole was punished with labor camp for laziness. Now that indicates to my mind at least that he had been theretofore punished for laziness with labor camp. Who put him in the labor camp?

DR. POHLE: Can you say something about that, Witness?

WITNESS LORENZ: Well, this is punishment for some previous offense undoubtedly. There must have been some offense before. This small asocial group kept turning up again and again in these reports.

Q. Wait a minute, Witness. Can you tell us on the basis of this note, whether Szarawarski was punished in this way before by the plant or by the plant police?

A. Certainly not by the plant police. We had no power to do that. We never did it. It had to go through channels; a report from the plant police must have been sent to the Gestapo.

Q. But here on page 38 of the German it says that he wasn't punished by the Gestapo but by the Reich Labor Trustee. Was the Reich Labor Trustee also a governmental agency?

A. Yes, of course it was.

Q. Can you remember why in this case the Reich Labor Trustee inflicted punishment, whereas usually the Gestapo was ordered by law to deal with eastern workers?

A. This matter isn't entirely clear to me. Apparently the man who filled out this form made a mistake. It was not usual for Poles to be punished by the Reich Labor Trustee.

Q. You think then it was an error to this extent, that probably

it wasn't the Reich Labor Trustee but the Gestapo who inflicted the punishment?

A. That's what I think; yes.

Q. But you do not think the error to be that he wasn't punished at all?

A. There is no doubt about that. At any rate the plant had information that the man had been punished; but whether he had been punished by the Reich Labor Trustee, that I find doubtful. It does not appear to have been the case.

JUDGE ANDERSON: Before you leave, one final question. It refers, as Judge Daly pointed out, to the fact that the measures that the plant could take had already been exhausted. What were those measures?

DR. POHLE: What have you to say about that, Mr. Lorenz?

A. Very well. The plant could withdraw certain privileges from this worker.

JUDGE ANDERSON: Well, now, don't be indefinite and generalize about it. State what the privileges were. What was actually done in this particular case?

WITNESS LORENZ: Well, the plant could grant certain privileges —smoking materials, and so forth. These could be withdrawn from the worker. In addition, there were above all punishments inflicted by the plant in the form of monetary fines. They would have already been applied in the case of this man.

DR. POHLE: Witness, let me ask you, these possibilities of punishment within the plant, are they also indicated in this form?

A. As I have already said, I wasn't interested in details, I just noted that the measures available to the plant had been exhausted.

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Q. Mr. Lorenz, now that we have discussed a large number of documents in document books 34–A and 40–A, in order to illustrate this matter as clearly as possible, I should like to ask you a general question: Did the plant police always make such applications as these to the Gestapo?

A. No, certainly not. The former chief, the late Wilshaus, was from the old Krupp stock; he was very careful and always weighed things up, and was very restrained. I can say quite definitely that no unnecessarily harsh measures were carried out by the plant police.

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Q. However, Mr. Lorenz, let me ask you whether you know of cases of beatings that took place in the cellar of the main administrative building in the very last weeks of the war?

A. Yes, that took place. Toward the end of 1944 and the beginning of 1945, when the air attacks became more and more severe and almost uninterrupted, then everything was turned topsy-turvy.

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EXAMINATION BY THE COURT

JUDGE ANDERSON: Witness, by whom were those beatings that you said did occur, notwithstanding regulations against it? I understood you to say that they had regulations against beating these eastern workers, but notwithstanding that they did occur, is that correct?

WITNESS LORENZ: Yes, Your Honor.

Q. Now, were they beatings by the members of the plant police?

A. No, by members of the extended plant police I, which was a quite different organization.

Q. By whom were they employed?

A. Those people were employed by the firm, but at the time they were working for the plant police, so that in practice they came under the jurisdiction of the plant police.

Q. Now, to whom did you make your reports?

A. To my superior, Mr. Wilshaus.

Q. And what was his position?

A. He was chief of the plant police; and he was an auxiliary policeman.

Q. You made the reports on the basis of your investigations?

A. Yes.

Q. And it was part of your tour of duty, you testified, to investigate assaults among others?

A. I did not hear the question?

Q. I understood you testified in your direct examination that among other things which you investigated were cases of assault?

A. Yes.

Q. Now, did you report these beatings by the extended works police to your superiors?

A. Yes, I did.

Q. Did you investigate them before you reported them?

A. At the time when those cases happened, Your Honor—I don't know quite how you mean whether we investigated—we only heard about them, because we would only learn about them afterwards, they took place behind our backs—

Q. Wait; wait a minute; we can stop this business, we can shorten it a bit. You included the facts that were reported to you, and on the basis of your investigation you made a report to your superior as to what the facts and circumstances were; that's about it, isn't it?

A. No, Your Honor; at those times there were a great many things to be done, so that we could only make an oral report. It was our duty to instruct and warn the offenders, but Mr. Hassel decided that the offenders should be at his disposal until he would make a decision. Whatever he decided we would learn afterwards. It was a very peculiar state of affairs that Mr. Hassel was in a position to go beyond, and disregard, all the firm's instructions, and act on his own initiative.

Q. Well, that was very commonly known in the plant, wasn't it?

A. Yes.

Q. Now, were any of these people—the employees of the Krupp firm who beat up these eastern workers—were they ever punished in any way?

A. No, not at that time any more—

Q. Oh, well, at any time, Witness. Were they ever punished at any time on the basis of your investigations and reports that you made?

A. Yes. Such cases did happen.

Q. When?

A. During normal conditions there were one or two cases where people were punished for beating eastern workers. I know some cases, I can't give you any exact details, but I know that some people had a week's wages withheld in a camp because they had beaten an eastern worker.

Q. Were any of them put in prison or in a prison camp?

A. Not as far as I know.

Q. Did you ever, yourself, on the basis of your investigation, recommend that kind of punishment?

A. No.

Q. Did you ever report Hassel for his conduct toward these people?

A. I couldn't report Hassel. Hassel during those last weeks was my direct superior, because my real superior was mostly away. Hassel was my immediate superior, so to whom could I have reported Hassel? There was nobody above him.

Q. Well, had there been anybody above him to whom to report, would you have done it?

A. Yes, I would.

Q. Now, I didn't understand why you said you sent copies of these reports to von Buelow, that you made about these eastern workers. You say that it was done as his business.

A. Mr. von Buelow had to take a certain interest in those things because he was the chief counterintelligence officer. It was not a direct concern of his, but he had to concern himself

with some of the foreign workers, who were often walking around freely, regarding possible contact with foreign agents. Consequently, such reports were sent to him so that he knew what was going on.

Q. Did von Buelow know about these guards beating up the workers?

A. No, he couldn't.

Q. How do you know he didn't?

A. Because at that time Mr. von Buelow was not in Essen, when those incidents happened.

Q. Do you know, did Ihn know about it?

A. No, I had no chance of meeting Mr. Ihn. Anyway, during that time, most of the Krupp executives were not in Essen.

Q. How many of these people were killed by the guards, shot, altogether?

A. As far as I know the guards shot three or four men. One was shot by the factory guard, one by an SA man, there may have been three or four cases when the members of the extended plant police I, in fulfilling their duties, shot offenders.

Q. Was anything ever done to anybody for killing one of these workers?

A. As I said, Your Honor, the official investigation by the criminal police and the homicide squad would come to the conclusion that the incident happened in the fulfillment of duty or in self-defense.

Q. Well, was that the conclusion in every case?

A. In all cases, yes.

Q. So that there was no punishment meted out to anyone, as far as you know, for killing these people?

A. No, there was not.

Q. Were they ever tried by any court?

A. No, they were not. We only received the information—but I think yes, in some cases the people were called before a court; but at any rate the result was the proceedings were dropped. That is how it was usually worded.

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JUDGE DALY: Just one or two questions.

You said, Witness, you didn't report Hassel's conduct because Hassel was your superior. Have you reported Hassel's conduct to anybody since Germany's surrender?

WITNESS LORENZ: No.

Q. Why not?

A. Those occurrences were generally known. I knew that the authorities already knew what had happened.

Q. Did you know the Krupp people knew what had happened?
A. [No answer.]
Q. I didn't hear what you said.
A. No.
Q. Why didn't you report it to them, then, after the surrender?
A. You mean I, personally?
Q. Yes.
A. I don't know. I thought that these incidents had become known and I didn't do anything about it.

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EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS JOSEF BORCHMEYER*

DIRECT EXAMINATION

DR. WOLF (counsel for the defendant Lehmann): Witness, please tell the Court your full name.

WITNESS BORCHMEYER: Doctor Josef Borchmeyer.

Q. When were you born?
A. 13 November 1898.

JUDGE DALY: I notice it says "Dr. Hans Borchmeyer."

DR. WOLF: I beg your pardon. It is apparently a mistake. What is your position, Witness, and your occupation?

WITNESS BORCHMEYER: I am an attorney and notary public.

Q. How long have you held these jobs?
A. Since 1926.

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Q. Witness, please tell the Court what functions you had.
A. In my official capacity I was in charge of the supervision and the counterintelligence of all prisoners of war, first of all in the Stalag in Krefeld and later on in Dorsten; furthermore of all labor detachments of prisoners of war in the Duesseldorf district.
Q. Does Essen belong to this district?
A. Yes, it does.

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DR. POHLE (counsel for the defendant von Buelow): Dr. Borchmeyer, do you know Mr. von Buelow?

WITNESS BORCHMEYER: Yes.

Q. What were Dr. von Buelow's functions at Krupp?

* Complete testimony is recorded in the mimeographed transcript, 10 and 11 May 1948, pp. 7221–7247, 7251–7331. Further extracts from Borchmeyer's testimony concerning prisoners of war are reproduced below in section VIII G 3.

A. I don't know his actual functions, but during the war he was so-called chief counterintelligence agent of the Krupp Cast Steel Works.

Q. What were his functions in his capacity as chief counterintelligence agent?

A. He was in charge of safeguarding and securing the Krupp factories against espionage, sabotage, and attempt of undermining the German staff by the foreign workers of the firm. In addition, he was in charge of the maintenance of the secrecy regulations.

Q. You stated that he was in charge of safeguarding of security against undermining attempts among the German and foreign workers; could you expect such undermining attempts?

A. Certainly, mainly since the deterioration of the war situation particularly since the catastrophe of Stalingrad there was in general a lowering of, how shall I say it, the war morale, and the German will for victory and the workers morale which became noticeable. For the rest, the enemy propaganda which was very clever did the rest to further such undermining efforts.

Q. Was the chief counterintelligence agent competent for questions of prisoners of war and whether they could be employed in certain productions in accordance with the Geneva Convention?

A. No, that was not under the jurisdiction of the chief counterintelligence agent.

Q. Then the security official of the armament office, who was superior to the chief counterintelligence agent was not competent for this either?

A. No. The question of the Geneva Convention was not the job of the counterintelligence officials. The security official of the armament command, could determine that in a certain part of the factory foreign workers should not be employed in the so-called secret production. These regulations were under the competency of the A.O. Rue., the security officer of the armament office, and he would discuss these questions with the security officials of the plants.

Q. Then the competency of the security official was solely in questions of actual security?

A. Yes.

Q. Was the security official competent for the treatment of prisoners of war in factories and camps?

A. He had nothing to do with that.

Q. Prosecution presented a document in volume 36, page 19 (*NIK–12356, Pros. Ex. 904*)* in which a phone call is made to Mr. von Buelow about the poor treatment of prisoners of war.

* Reproduced below in section VIII G.

The secretary of Mr. von Buelow forwarded this report to Mr. von Buelow and Mr. von Buelow passed it on to the competent official, namely Dr. Lehmann. Then, in other words, Dr. von Buelow's statement that he was not competent to handle this matter was right?

A. Yes.

Q. You said that it was one of the tasks of the main security official to protect the plant against sabotage?

A. That is right.

Q. Did this refer to prisoners of war too?

A. Naturally.

Q. To whom did the main security official report if such cases of sabotage occurred?

A. The channel of report concerning cases of sabotage by civilian workers is not known to me exactly. I don't know the service instructions for the security official.

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Q. I now return to the Gagiel case. Please take the same document book. This is Document NIK–12362, Prosecution Exhibit 998* on page 20 in the English, a memorandum from von Buelow regarding a discussion with you dealing with the punishment of prisoners of war. You received a copy of this memorandum from Mr. von Buelow.

A. I can't say yes or no to that question. I had about 100,000 prisoners of war under me and can't remember every single document from that period. I do not remember having received a copy of this file note.

JUDGE ANDERSON: Dr. Pohle, I would like to ask—this file note seems to refer to a discussion with Captain Borgmeier. Is that the witness?

DR. POHLE: Yes, that is.

JUDGE ANDERSON: I had not had his name spelled that way.

DR. POHLE: The name is misspelled here in the document, Your Honor. The name is spelled—may I spell it—B-o-r-c-h-m-e-y-e-r.

JUDGE ANDERSON: Yes, I have it now. It wasn't that way on the document.

DR. POHLE: But you would not deny that there was a possibility that you received this document?

WITNESS BORCHMEYER: No, it is quite possible I did.

Q. However, you do remember the incident?

A. Yes, very well, because this was the very incident that led to those explanatory conferences that I had regarding the Wehr-

* Reproduced above in section VIII C 1.

macht's jurisdiction in matters concerning prisoners of war. At that time I received information regarding this case, from the Landwehr company, that is the company which guarded the plant. I looked into it and refrained from following the matter further for the following reasons, by and large: First of all it was my view that the person really guilty of this unamiable occurrence was not the Russian Gagiel but the German workers in the Krupp firm who, in contravention of existing regulations, involved the Russian prisoners of war in debate on how the war would turn out—who gave the Russians no chance at all in this argument, and thus, they quite unnecessarily annoyed the Russian prisoner of war and the prisoner of war made this statement in his excited state of mind.

Q. Just what statement are you speaking about?

A. Well now I don't remember exactly, but there it is in the document. He is alleged to have said, "Everything will soon be ruined in Germany, then all officials, foremen, factory managers, and so forth, will have their throats cut. Then we (the Russians) will live in the good houses and you Germans will have to live in barracks."

Q. Then how did you handle this matter?

A. I simply abandoned any pursuit of it. The Russian wasn't even arrested for 1 hour.

Q. Then how does it happen that this case came up again?

A. It went through a process that was very unpleasant to me and perhaps even more unpleasant to Mr. von Buelow, through the fact that this Russian shortly thereafter fled.

Q. In von Buelow's file note he says that there was a discussion in the plant of the fact that German employees in the plant didn't like to see this Russian running around at liberty in the camp after he had made this sort of statement.

A. In my discussion that I had with von Buelow after the Russian escaped Mr. von Buelow was very angry with me, and quite rightly so. From the plant he had been most severely criticized for letting this slightly crazy Russian who wanted to cut everybody's head off run around on the loose. And the plant told him that he as main security officer had not been stringent enough in this case and consequently had been guilty of dereliction of duty. Mr. von Buelow, with even greater justification, passed this charge on to me, and said that if I had acted energetically, if I had arrested this fellow he wouldn't have been able to escape. We had a slight difference of opinion on this subject.

Q. Was this, so far as you recall, the only case in which such difficulties arose through the plants?

A. No, it is not. I know that Mr. von Buelow and the others who were in charge of prisoner of war matters several times had trouble from activistic and Nazi members of the staff, I am thinking primarily of the so-called plant cell managers who made lots of difficulties on the charge that the prisoners of war were treated too leniently.

Q. Was the purpose of this discussion with Mr. von Buelow the wish to protect yourself against these activistic Nazis?

A. I told von Buelow why at that time I had done nothing against that prisoner of war and he then asked me for an explanation and the reason why possibilities of prosecution of prisoners of war existed who had committed crimes. I then explained the matter to Mr. von Buelow.

JUDGE DALY, Presiding: May I ask the witness this question, or will you ask him, Dr. Pohle—Was your understanding such that von Buelow had a right to check up on you, an officer of the Wehrmacht?

WITNESS BORCHMEYER: No, he did not have that right.

Q. Well, then, why did he ask you these questions you just told us about?

A. This whole discussion with Mr. von Buelow I constructed in this way, that he wished to have an explanation from me so that he could protect himself against the radical elements in the plant.

Q. Well, he was critical of you, wasn't he?

A. Yes, he was.

JUDGE DALY, Presiding: That's all. Thank you, Doctor.

DR. POHLE: When we were talking about the Gagiel case, did you not also say that this conference dealt with a clarification of jurisdiction?

WITNESS BORCHMEYER: Yes, that is so.

Q. And why was this necessary?

A. Mr. von Buelow was not very accurately informed of the possibilities of punishing prisoners of war when they committed crimes, either by the plant, or what competence the Wehrmacht had, or thirdly, to what extent the Gestapo could check in these matters—and that is what I explained to him.

Q. Now, this statement that you just read, by this Russian, is that a punishable statement according to German laws?

A. Yes, of course.

Q. What law are you referring to?

A. The law concerning undermining the military morale.

Q. What is the punishment provided?

A. Penitentiary, and in particularly grave cases—death.

Q. In von Buelow's file note it says that in certain cases the

prisoners of war can be turned over to the Gestapo if the case was a particularly grave one. Will you please explain how this could be?

A. That referred only to Soviet prisoners of war. There was a directive from the High Command of the Armed Forces that in particularly grave cases of espionage, sabotage, or undermining, if the Wehrmacht's competence was not sufficient, the matter should be turned over to a Gestapo agency.

Q. Do you know of cases where such matters from the Stalag were turned over to the Gestapo?

A. In all those years I have never turned one prisoner of war over to the Gestapo.

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EXAMINATION BY THE COURT

JUDGE DALY, Presiding: You have spoken rather disdainfully of the Gestapo. The Gestapo was made up of persons, wasn't it? You saw many things which apparently the Gestapo did and which were not correct. Have you ever reported any members of the Gestapo whom you saw or knew did things that weren't right—have you reported them since the end of hostilities, since Germany's capitulation?

WITNESS BORCHMEYER: No, I don't even know these gentlemen's names.

Q. Well you have just been talking here about what the Gestapo did. Didn't you know the Gestapo had to act through individuals? Don't you know the name of one individual member of the Gestapo who did these things?

A. No, I can't say who issued these orders. I can't even tell you whether it was the chief of the Gestapo himself who was empowered to pass sentence of death, or whether that went through the RSHA. The Gestapo, however, did the executing.

Q. Well, when you speak of the Gestapo you simply speak of individuals, don't you?

A. Yes, of course, not all officials in the Gestapo had the same attitude.

There were definitely members of the Gestapo who—

Q. But you don't know the name of one of them?

A. Anyone who passed sentence of death on a prisoner of war, you mean—then I don't know.

Q. No, that committed any atrocity as a member of the Gestapo.

A. Your Honor, I have already said that I never transferred any matter from my competence to the Gestapo so that actually I never had any bad experience with the Gestapo. All I know, I know from hearsay. I don't know any names.

JUDGE DALY, Presiding: That's all.

DR. POHLE: Witness Borchmeyer, you have said repeatedly that turning people over for malicious statements which were punishable by death according to German law were not turned over by the Stalag to the Gestapo. Nevertheless, I find in this file note a remark on your part that you are willing to have this matter of Gagiel turned over to the Gestapo. Now, then, what do you have to say about that?

WITNESS BORCHMEYER: Some time ago the defense showed me this file note of mine. Since then I have been wondering how von Buelow happens to include such a statement in this memorandum which in no way at all corresponds with reality. Never did I tell Mr. von Buelow that in my opinion the Gagiel case should be turned over to the Gestapo as the proper punishment. If you bear in mind the discrepancy between my actual behavior in this case, namely, the deliberate refraining from reporting a case that probably could have been punishable by death according to German law, and my alleged intention once this prisoner of war should be caught again to turn him over to the Gestapo. Thus you can readily see that I never entertained any such intention. It would be absurd even to assume such a thing. Now I have been asking myself, "How is it that von Buelow nevertheless set down something of this incriminating sort in this file note?" And the only explanation I can find for that is that von Buelow is here attempting to pacify the activist and radical elements in the plant who tried to turn this case against him, and that therefore this document was to show his alibi. I can find no other explanation for that.

JUDGE ANDERSON: Now wait just a minute.

EXAMINATION BY THE COURT

JUDGE ANDERSON: Do you think that this file note was distributed throughout the plant?

WITNESS BORCHMEYER: No.

Q. It is marked confidential, isn't it?

A. Yes, it is.

Q. Well, unless these activist elements were informed of the fact, why, how was it going to pacify them?

A. That is so. But if I may add, all the complaints emanating from the plant were taken to Mr. von Buelow by one Dr. Gummert, and this file note was shown confidentially to Dr. Gummert so that he could pacify the people in question in the plant, and the very fact that this file note is directed to Dr. Gummert confidentially to be passed on only to a few key people, this is an indication to me that this is exactly what Mr. von Buelow intended with this file note, namely to give a "sedative," if I may say so, to the tough people in the plant.

Q. Now I am not able to follow you there, Witness. Is it your idea that it was von Buelow's intention that Gummert should make it public throughout the camp as to his, von Buelow's, attitude about the matter? If so, why was it necessary to mark it confidential to Gummert, if he expected it to be proclaimed throughout the camp?

A. No, it certainly wasn't to be spread through the whole plant. If it were, then as the President so rightly says, the file note would not have been marked confidential. It was simply to be shown only to Dr. Gummert's plant, namely, the plant from which the complaint originally came; not to the whole of the Krupp combine of plants, but just to the plant from which the complaints had emanated.

Q. Was it intended—I understood you to say it was intended to pacify some class of radicals or activists. Were they—do you think this file note was written in this manner to pacify them or certain small groups?

A. Yes.

Q. Well, were the officials in that group?

A. Well, just who these hot-heads were, I don't know. I have no personal acquaintance with the Krupp firm. I simply know that these elements were to be found in Gummert's plant, and that Dr. Gummert had informed von Buelow about the excitement of these people.

Q. It shows on its face that a copy of it was sent to Lehmann, too, doesn't it? Was it necessary to pacify Lehmann about this attitude?

A. No, Lehmann certainly didn't have to be pacified because he never would have agreed to have prisoners of war turned over to the Gestapo.

Q. Gummert and Lehmann seem to be the only ones who got a copy of it, didn't they?

A. I see from this letter that I also was supposed to have received a copy, although I don't know for sure whether I did. I certainly didn't have to be pacified.

JUDGE ANDERSON: Well, that is all.

DR. POHLE: Then if I understand your answers to the questions from the bench, you considered this file note of von Buelow's as a camouflage maneuver vis-a-vis the hot heads in the plants who saw to it that sharp measures would be carried out against violations of this law regarding malicious undermining of Germany's war strength?

WITNESS BORCHMEYER: Yes, that is the way I understand it. I can find no other explanation for this note.

Q. From your discussions with Mr. von Buelow, do you know his attitude towards such matters in general?

A. Well, Dr. Pohle, it isn't very easy here under oath to give a picture of the character and personality of a person with whom one has come in contact only twice, but if you wish me to, then with certain limitations I might draw a sketch of what I noticed as his most prominent characteristics. He was a very obliging, charming man; a man of moderation; a conciliatory person. He had a particular, almost pedantic correctness about him, and was particularly conscientious and serious about his duties. In this very candid discussion that I had with him in the Gagiel matter, I had the feeling that I was dealing with a philanthropist. At any rate, von Buelow is basically of a very tender and harmless nature, and, above all—this made me feel closer to him at that time—in his careful judicious way of reaching a conclusion and in his efforts to find a legal basis for any decision he reached, I found him the diametric opposite of what one would call a "wild Nazi" who did not give himself too much trouble in finding the legal basis for anything he wanted to do. That at any rate would be the picture I had of Mr. von Buelow, having seen him only twice, although as I said, the discussion with him was very open and honest. Now whether this picture is correct in the abstract, that, of course, I cannot say. However, it is my impression.

Q. Well, now was the Russian prisoner of war, Gagiel, turned over to the Gestapo or not, eventually?

A. No, he was not. I don't know whether he was again arrested. I do not think so. If he had been recaptured, I can say with certainty that he would not have been turned over to the Gestapo, because I was competent for this matter.

Q. If he had been recaptured he would have been returned to the Stalag under you, is that right?

A. Yes.

Q. No further questions.

JUDGE ANDERSON: Before you get away from this incident, there are two matters I would like the witness to clarify. I understand that this was the file note purported to be a report of the conversation in which you said that you clarified to von Buelow your competency with respect to prisoners of war.

WITNESS BORCHMEYER: Yes, that is right.

Q. Now it states the facts to be just exactly contrary to what you say they were with respect to what should be done, doesn't it?

A. No.

Q. With respect to turning him over to the Gestapo?

A. In this one sentence—in other words, in the sentence where it says: "We were agreed." Now this "we," as I construe it, and

as we must construe it, means that Mr. von Buelow and I were agreed that after the prisoner has been recaptured the correct punishment would be to turn him over to the Gestapo. Now this sentence is wrong and contains, as you say, the exact opposite of what was really my view in this matter.

Q. That is not the only sentence. "If the criminal deed is of such nature that it cannot be atoned for by such disciplinary sentences then it will be turned over to a military court for all prisoners of war, except the Russians, who are to be brought before the State Police (Stapo)." Was that a correct statement of your conversation?

A. Yes, that is right.

Q. Didn't you tell von Buelow this, further, that "in such cases the State Police (Stapo) always passes the death sentence, for the execution of which a detail of other Russian prisoners of war may be used."

A. I told Mr. von Buelow of the case I have just described in which a Polish prisoner of war—I do not know of a Russian prisoner of war—who, because he had raped a German woman, was hanged by the Gestapo and that the comrades of this Pole were forced to take part in the execution. But not—

Q. Now, I don't want to appear discourteous in interrupting you, but that is not what I asked you. If you will examine—turn to the document book there and examine the paragraph I have read. Have you found it? Beginning with "If the criminal deed is of such a nature" and so forth?

A. Yes, it is here.

Q. All I want to know is whether or not that statement, with respect to turning prisoners of war—Russian prisoners of war over to the Gestapo, correctly reflects what you told von Buelow on that occasion, in which you say you clarified your competency with respect to the punishment of prisoners of war.

A. This particular paragraph correctly states in its first sentence what I told Mr. von Buelow. The regulation from the OKW was such that we had only two possible courses of action with Russian prisoners of war, either disciplinary action or turning them over to the Gestapo, in grave cases. The intermediate course, namely, the use of a court martial, such as was used for other prisoners of war, could no longer be used at this time with Russian prisoners of war, although heretofore it had been possible. Consequently, I could only have punished the Russian prisoner of war through disciplinary action, or turned him over to the Gestapo; I could not punish him through disciplinary action since that was not permitted for malicious undermining statements. Therefore, I was obliged to turn him over to the

Gestapo, but since I did not wish to do that for my own personal reasons and humanitarian feelings, I let the whole matter drop.

Now the second sentence of this paragraph is incorrect to this extent, in that I did not speak to Mr. von Buelow about punishment for undermining Germany's war strength, but I spoke of punishment of a Polish prisoner of war who had been guilty of sexual relations with a German woman.

Q. Going back to the first sentence, "If the criminal deed is of such a nature that it cannot be atoned for by such disciplinary measures—," who was to determine whether or not the deed was of such a criminal nature?

A. The camp commandant, whom I advised.

Q. By whom was the camp commander employed?

A. Under the commander in charge of prisoners of war.

Q. Well, who was he at Krupp, do you know? You mean the camp at Krupp?

A. I am referring to the Stalag commander.

Q. Well, was von Buelow, in the case of Russian prisoners of war, was he to turn them over to the Gestapo, or to turn them over to you and you turn them over to the Gestapo in case that the deed was of such a nature that it could not be atoned for by the disciplinary measures referred to.

A. Regarding the first question, Mr. von Buelow could not turn over any prisoners to the Gestapo, only the Wehrmacht could do that. Regarding your second question, according to existing regulations, if the statement here reported had turned out to be true, I should have been obligated to turn the prisoner of war, that is, Gagiel, over to the Gestapo.

Q. Now, one last question, going back to the confidential nature of this communication, did you know Dr. Gummert?

A. No.

Q. From what you heard about him, or what you learned, was he one of the so-called "activists" or "radicals" in the plant whom, in your opinion, von Buelow thought it was necessary to satisfy?

A. I do not believe that he was one of these trouble-makers of whom I just spoke, but I do think that he took a pretty sharp attitude on such matters and that he made lots of trouble for Mr. von Buelow.

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EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS CONSTANTIN SOSSIN-ARBATOFF*

DIRECT EXAMINATION

DR. KRANZBUEHLER (counsel for the defendants Alfried Krupp and Ihn): Mr. Arbatoff, will you please give the Tribunal your full name?

WITNESS ARBATOFF: Constantin Sossin–Arbatoff.

Q. When and where were you born?

A. I was born in Moscow on 13 October 1892.

Q. Will you please tell us what you did before you came to Germany?

A. In 1939, by the order of the German Labor Office, I went to Germany. I was to report at Krupp Essen.

Q. Just a moment. Where were you in 1939?

A. At that time I was living in Prague, in Czechoslovakia.

Q. Were you working at the time, or were you unemployed?

A. I was unemployed.

Q. You said that on request of the labor office you were sent to Krupp Essen?

A. Yes, that is correct.

Q. Did you go alone?

A. No, I didn't go alone, I went with a whole shipment of 150 Czechs.

Q. Do you know whether these 150 colleagues went to Germany on a voluntary basis?

A. As far as I know now, some of these Czechs went to Germany on a voluntary basis, but another part went under duress.

Q. You yourself, did not go voluntarily?

A. No, I didn't. I was forced to go.

Q. What kind of shipment was it with which you went to Essen?

A. By order of the labor office, all travelers had to assemble at 4:00 o'clock in the afternoon at the main station in Prague. At the station there was a train ready to leave. It consisted of five Pullman cars which were completely new, and they had been made into a special train for us. Two representatives of the firm of Krupp welcomed us, and when they directed us to our seats, they gave every one of us a large parcel of sandwiches with white bread, sausages, and various other food articles. That was so that we should not be hungry on our journey. The train left the station punctually at 4:00 o'clock, and the next morning at 9:00 o'clock we arrived at Essen without having

* Complete testimony is recorded in the mimeographed transcript, 5 May 1948, pp. 6711–6778.

had to change trains. At 9:00 o'clock in the morning several representatives of Krupp at Essen welcomed us and helped us with our luggage. Everybody received a number for his luggage which was transported separately. There were two large busses waiting for us. Those busses, too, were entirely new and nice, and we were very much surprised at this treatment, particularly all the Czech workers had not expected anything of the kind. They even sort of went around and touched the upholstery in the bus to find how nice and new it was. They could not find words to express their surprise. Then the 150 of us were taken around the town for about 2 hours. We were shown all of the Krupp plant, the vicinity of the town, and the town itself. Eventually they took us to the Krupp club, Koppenhoehe, where all those new arrivals were having their lunch. Everyone of us received a lunch, a three-course meal. There was no end of beer, and every place had also twenty cigarettes on one side and on the other side of the plate there was a post card already stamped and with the sender's name already written on it, so everyone of us could immediately write home that we had arrived safely. Now, this reception was so overwhelming that the Czechs could hardly believe they had come to Germany. During the meal, representatives of Krupp made a speech in which they welcomed us and they expressed the hope that we would have a pleasant time working at Krupp's. The meal lasted for about 3 hours. After lunch we were put back into our busses and we were taken through the town and around the town for another hour.

Q. Mr. Arbatoff, I don't think you need give us all those details, but perhaps you can tell us how you were housed.

A. We were taken to Bottroperstrasse, where there was a very good and substantial building. It looked almost like a sanitorium. That was our billet. There were always two workers to each room. Everything in the room—the furniture—the linen, and everything else—was entirely new. There were special bathrooms and washrooms. Altogether, the whole place was equipped in such a way as is only possible in a civilized state. There was a very nice kitchen, with German maids, who served us a very good meal.

Q. Now, how were you employed then?

A. We were told we should wait for 2 days, then one of the cashiers of Krupp came along and gave everyone of us ten marks advance on our wages. On 6 June a committee of about ten gentlemen arrived. This committee was made up of plant foremen, shop foremen, and so forth. According to their credentials, they were specialized skilled workers of Krupp's. One hundred of us were employed in "Apparatenbau I."

JUDGE ANDERSON: Employed where?

THE INTERPRETER: Appliance construction I, a special workshop for small appliance construction.

DR. KRANZBUEHLER: Now, what was the reaction of the Czech workers during those first 3 days at Essen?

WITNESS ARBATOFF: As far as I could gather from their remarks, I understood that they had not expected anything like it.

Q. You mean they were pleased about their reception?

A. Yes, they were overwhelmed.

Q. What kind of work were you given?

A. First of all, I was employed as a Czech interpreter.

(Recess)

Q. You said that you were an interpreter for the Czechs. Will you tell us whether you were trained as an interpreter, what training you have had, or what education you have?

A. I wasn't an official interpreter, but since I had lived in Czechoslovakia 16 years I learned to speak Czech well. My education was in Moscow. I was a commercial engineer in Russia. I was in the war service in the First World War; from 1914 to 1918, I was at the front as a fighter pilot.

Q. Can you tell me whether the Czech workers were given a chance to go home on leave?

A. As far as the promise of the firm went, everyone could go every half year, they could go home for 3 weeks. That was in the first year. The second year we received leave for 2 weeks, once every 3 months; but after 6 months this law was changed, and once more we received leave once every 6 months for 3 weeks, and it remained that way until the end of the war.

Q. How long did you work as interpreter in the appliance construction shop?

A. Three months.

Q. Where did you go from there?

A. Then I personally asked to be employed as locksmith.

Q. Did that happen?

A. Yes, it did.

Q. How long did you work at Krupp's as locksmith?

A. One year.

Q. Did you have any complaints about your treatment during that time?

A. No, by no means. I am not a specialist. As an unskilled worker I received 94 pfennigs an hour just like skilled locksmiths.

Q. What happened after the year you worked as locksmith?

A. During the war many workers were drafted into the armed

forces and many machines were idle. I volunteered for the milling machine and I received permission to work on the lathe and I worked on this milling lathe until 1942.

Q. In what part of the plant did you work?

A. Appliance construction shop 1.

Q. Where did you go from there?

A. After that on the orders of the main administration I was transferred to the labor allocation office I. At the beginning as a specialist I compiled statistics, but mainly I was to be a Russian interpreter.

Q. During your work there did you get in touch with the workers who had come from Russia to Germany?

A. At that time no eastern workers were there. Only a small group of prisoners of war was there.

Q. When was that?

A. That was about approximately toward the end of 1941.

Q. Did you see these prisoners of war yourself?

A. Yes. Mr. Lehmann, the responsible man for the external affairs department, asked me to go into the camp with him. At that time 85 people were in it. These were Russian soldiers who looked very poorly. I asked them how they had become prisoners and they said that they surrendered voluntarily and that they were glad that they could work there, but they never wanted to return home.

Q. You said that these men looked badly. Had they just arrived at Krupp or had they been there a long time?

A. They had just arrived from the front.

Q. What happened with these people?

A. I wrote down their names, their skills—the majority of them turned out to be agricultural workers. I forwarded this list to the administration office and from that time on I did not see them anymore.

Q. Did you also talk with civilian workers from the East?

A. From that moment on, from the moment when Krupp received the first group of them, mainly eastern workers, my work as interpreter began.

Q. When did this first group arrive?

A. I can't tell you exactly, approximately the middle of 1942. I think it was in April of the year. I have no documents to prove it.

Q. Did you meet this newly arrived group shortly after their arrival?

A. At once.

Q. How many were there?

A. Approximately 800.

Q. Please describe the reception of this group.

A. When they arrived from their trains or trucks, they were taken to the main transient camp on the Bremerplatz, where it was my duty to write down their names and their trades. These people made a terrible impression on me. There was only 10 percent of this group who could be used as skilled workers, because the Cast Steel Works could not use these people. Among these people were 80-year olds, whole families, grandfathers, grandmothers, and even grandnephews. They had a lot of junk with them. They couldn't work in such a factory. When I asked them why they had come, they said only that they had waited for the moment when the Germans would arrive, and when they would be given a chance to go to Germany, and they accepted at once. It did not matter what they were to do in Germany, the main thing was to go away as far as possible from Russia.

Q. Did you meet anyone among this first group who came to Germany under duress?

A. These people all came of their own free will. They had even brought large pieces of lard and whole sacks of onions along.

Q. Were these families separated, and the men retained in the factory while the others were sent back, or what happened?

A. It was like this. When these people came into the camp, the camp management assigned them to the rooms of the huts. The men suitable for work received work at once in the factory in proportion to their strength, because many men of this group were undernourished, and the factory offered them light work. The families were not sent to other cities. Healthy women were sent into the kitchen where they peeled potatoes and prepared the food. The children were given an extra hut where they spent the time during the absence of their parents. I never heard that they were separated.

Q. How was the quartering in this Russian camp?

A. As far as I know in the camps which I visited, during the arrival above all, the camp leader sent the whole gang of them into the bath, dirty clothes in which they had arrived were burned immediately, and he tried through the plant management to obtain work clothes for them. In the camp the beds are sacks with fresh straw. Each person slept on his own straw mattress, not two in one bed. That is all I know.

Q. Did you ever talk about it with the eastern workers how they themselves considered these accommodations, whether they were depressed by them or not?

A. At first they didn't believe me. They thought I was a German spy. Later on when they felt that I was really a Russian and could understand them thoroughly, they opened their hearts to me and their souls, and told me very much from their home-

lands. Since I had not been to Russia for the past 30 years, I did not want to believe; but when I talked with very intelligent people, they told me they were happy to be far away from Russia and that only a person who had been there and who knows the history of the past 30 years could believe it.

Q. Was the health of the Russians looked after?

A. I don't know who was in charge of that, but I must emphasize that in each camp there was a dispensary. The chief physician, Wiele, took care of these eastern workers. In each camp there was a dispensary, one physician and two nurses. They were composed of volunteer eastern workers, among them Lithuanians.

Q. Could eastern workers be admitted into a hospital when they were seriously ill?

A. Yes, in the main hospital of Krupp; and in view of the fact that among these workers a small percentage was tubercular, Dr. Wiele opened dispensary number 6 where only tubercular patients were admitted. I myself visited this ward and talked with the patients. They were amazed by the conditions, above all by the food which they received there. I had employed 25 young girls there as orderlies. I was not able to recognize them after 3 months there because they had gained so much weight. When I saw them 3 months later, they had never believed that life could be like that. They treated me to a lunch which I can't forget to this very day, and I wish I had food like that today.

Q. When was that, Witness?

A. In 1943.

Q. That was the food in the hospital, now how was the food for Russians in the camp?

A. When I compare the food I received as a white-collar worker, compared with the food of the common workers, the food of the workers was not much different from that of the higher employees. However, you must realize that these people had quite different habits and customs. They were people used to a lot of bread, for the simple reason that in the last years in Russia there was nothing else. They had no other food other than bread. If work lasted all day long, a worker just took a large piece of bread and a bottle of water and that was enough for him to work in the hot sun in the open field; but when I came to Krupp, they were surprised at first at the food they received in the camp. They complained that they didn't receive enough bread, but this comes from their habits. The bread which I received I divided for the evening and for the morning, but the eastern workers when, after work, they came into the camp, they ate their ration at once. Naturally, it wasn't adequate. In addition, they received

heavy-worker and very-heavy-worker food allocations, and in addition they bought bread in the black market, and still it wasn't enough for them.

Q. Did you ever eat the food of an eastern worker so you were in a position to judge it?

A. Each time I visited the camp I went into the kitchen in order to see for myself whether they were telling the truth or not. I asked for a plate, and when I had finished the plate I laughed because we had quite a different appetite. I received a plate of thick soup with potatoes and peas and a portion of fat which we were allotted by the rations; however, they not only ate a small plate but a whole tubful, but it still wasn't enough for them.

Q. You said that you went to find out whether the eastern workers told the truth or not. Then you did receive complaints about the food, didn't you?

A. During the first period when they had come to Germany, they were under psychological pressure.

Q. Why?

A. Why, because they wanted to show that they had come of their own free will to Germany to work; therefore, they felt that they were entitled to better food than the others. However, when they had been here for 3 or 4 months, they realized how the Germans ate and their opinions changed.

Q. The difficulties of feeding were primarily a question of habit, you think?

A. I think so.

Q. How did they look, what kind of an impression did they make on you? Did they seem undernourished?

A. When they arrived they looked so horrible that I couldn't believe that these were Russians because when in 1918 I left Russia, I never saw such people in Russia.

Q. Witness, in your testimony I see a contradiction. You just stated now that when the people arrived they looked bad, and before you said that some families had large pieces of lard. How do you explain that?

A. It is like this. Among these people a large part were farmers, but the part which came from the cities, all of them were beggars.

Q. And that is the part you make your reference to with your remark that they looked so bad?

A. Yes.

Q. Do you know whether there was special food for children and pregnant women?

A. As far as I know all children received additional milk, infants had a special nursery. All expectant mothers, in line with

the regulations of the firm, were freed from work 6 weeks prior to and 6 weeks after the birth of the child, and during the time of birth they were put into the maternity ward of a catholic hospital in Germaniastrasse, where they received good food and good care for themselves and their infants.

Q. In view of the many air raids on Essen, was any special care taken for the eastern workers?

A. On the instructions of each camp commander, underground shelters had to be constructed; and when the attacks began, the camp commander never left the camp until all the people had left the huts. I myself witnessed that the camp commander Botz, when his barracks were already burning, saved things inside, and did not leave the camp until the air raid ceased.

* * * * * * *

Q. Did the eastern workers have some freedom of movement, or were they restricted in that?

A. The freedom of eastern workers in Germany is unbelievable for many people.

Q. Wasn't the camp surrounded by barbed wire?

A. Yes, I think so. At the secret order of the Gestapo, all foreigners had to be behind barbed wire. The first group of Russian workers came to the Kraemerplatz, and this camp was not surrounded by barbed wire, only at part of it, where there was no wooden fence, a barbed wire was put up. It seems to me that this was the only camp, because after the first air raid we did not have enough barbed wire, and we didn't have any fence.

Q. If an eastern worker returned from work, was he able to go into the city, or did he need leave, or was it completely prohibited for him?

A. Generally speaking the regulations were that each worker wanting to go into town needed a leave pass from the camp commander, but mainly these instructions weren't followed. There was a guard in an open place, who looked around now and then, but he didn't pay much attention to anyone. I myself saw in the town this sign they had to wear, and since I knew them personally, I asked them, "Do you have official leave to go into town?" Mainly they did not have this leave, and I warned them, and said, "Watch out that the Gestapo doesn't arrest you"; and they said, "When I see a cop, I run to the other side."

* * * * * * *

CROSS-EXAMINATION

MR. RAGLAND: Witness, you have covered quite a wide range in your testimony. You have testified as to your affairs, those of the eastern workers, and so forth. I should like first to ask you

a number of questions concerning yourself and your own affairs. Do I understand correctly that you were born in Moscow and were educated in Russia?

WITNESS ARBATOFF: Yes, that is correct.

Q. When did you leave Russia?

A. On 5 May 1919.

Q. When were you in Germany for the first time?

A. On 3 June 1939.

Q. You were never in Germany before that date?

A. No, I only came to Germany once in 1928.

Q. How long were you in Germany in 1928?

A. One month.

Q. Where in Germany were you during this 1 month?

A. I came from Prague with a theatrical company. We went via Asch, Eger, Hof, Plauen, Nuernberg, Regensburg, and again back to Prague.

Q. Are you married?

A. Yes, I am.

Q. What is the nationality of your wife?

A. She is also a Russian emigrant.

Q. Where were you married?

A. In Prague, Czechoslovakia.

* * * * * * *

Q. As I understand, you were met by two Krupp representatives on the train which you took from Prague to Essen, is that correct?

A. Yes, that is correct.

* * * * * * *

Q. Subsequent to this date and after the war began, there were large numbers of other groups of foreigners who arrived in Essen, is that correct?

A. Yes.

Q. Do you know whether these other groups of workers received a similar welcome upon their arrival in Essen?

A. Only a few of them.

Q. A few groups?

A. A few individual people, I mean, just a few more people.

* * * * * * *

Q. Witness, as I understand your testimony, it is to the effect that a few foreign workers, after the war began, received a welcome similar to that which you received when you arrived in Essen. My question, is what was the date on which these few other foreign workers received such a welcome?

A. Right from the beginning until the end of the war.

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Q. Do I now understand your testimony to be to the effect that the various groups of foreign workers who arrived in Essen throughout the war years received a welcome similar to the welcome which you and your group received in June 1939?

A. As far as I am informed, they were all received in the same way.

Q. The group of eastern workers who arrived—were they met in nice busses; were they taken to a club, or something equivalent to a club, and given a three-course meal?

A. I don't know.

* * * * * * *

Q. Now, did you have an office assigned to you as such an interpreter?

A. No.

Q. Where did you work?

A. In the offices of the labor allocation department "I".

Q. Where were they located?

A. In the main administration building.

Q. Did the main administration building house the leading officials of the Krupp concern?

A. I never met them there.

Q. Witness, do you know any of the defendants in this case?

A. I know two of them.

Q. Who are they?

A. Director Ihn and Mr. Lehmann.

Q. You do not know von Buelow?

A. I had heard about him, but I never talked to him.

Q. While you were in Essen, where did you live?

A. First of all I lived in the Krupp bachelor apartments.

Q. Yes, and thereafter?

A. That was burned down in an air raid, and I went to live in Muelheim on the Ruhr.

Q. Yes, and thereafter?

A. I stayed with a German family for the rest of the time.

Q. Did you ever live in a workers' billet or workers' camp?

A. No, never.

* * * * * * *

Q. Witness, may I suggest once again that you listen to the question carefully and attempt to answer it directly. Let me ask—among the camps for eastern workers which you visited, did you on any occasion visit the camp for female eastern workers, such workers being employed at armor construction plant 1? I believe it is armor construction plant 4 rather than 1. Within the main administration area in Essen?

A. I saw many Russian women in the camp, but I don't know whether they belonged particularly to that plant.

Q. Did you visit the camp for the female workers itself who were employed in that plant and whose quarters were a short distance from the plant itself?

A. I heard of the armor construction plant 4, but I don't remember it.

Q. Will you give us the names of a few of the eastern workers' camps that you did visit and the dates on which you visited those camps?

A. I can't say that now because the camp life changed every day.

Q. You cannot at this time recall a single camp which you visited and the date on which you visited that camp, an approximate date?

A. I remember for instance, the name Spenlé Street camp and the camp in Germania Street.

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EXAMINATION BY THE COURT

JUDGE ANDERSON: I understood you to say that it was part of your business to visit these camps of the eastern workers, is that correct?

WITNESS ARBATOFF: But only when I was called.

Q. By whom were you called in?

A. The camp commander.

Q. Well, so far as you knew there was no difference in the conditions prevailing in any camp in Essen?

A. Before the camps were destroyed by bombs they were all in good order.

Q. How about with respect to the food?

A. Until the air raids destroyed our huts, the food came in regularly. After the bombs had destroyed a lot, we had to make other arrangements and it was not quite as orderly anymore.

Q. I am not speaking about orderliness; I am speaking about the quantity of the food.

A. Even after the air raids they received almost the same quantity.

Q. Now, you have referred to eastern workers. Just whom do you mean—whom do you wish to be understood by eastern workers, what nationalities? Did that include Czechs, Poles and Russians?

A. Yes, all Slav nations.

Q. Well, was there any difference in the treatment between any of those groups, any of the Slav groups?

A. No, it was always the same.

Q. Was there any difference in the treatment and food and billeting of the Slav groups and the western workers?

A. I never visited a camp for western workers, therefore, I do not know what and how they ate, or how they were accomodated.

Q. Was there any difference between the food furnished the Slav group and the German workers?

A. Yes, naturally there was a difference, because the German worker had his food ration cards.

Q. The eastern workers of the Slav groups had no ration cards of any kind?

A. No, they received no cards at all—the eastern workers.

Q. As I understand you, they, the eastern workers including the Russians, were allowed to mix and mingle freely with the German workers and the German population in Essen?

A. Yes, that is correct.

Q. Were there Russians there from parts other than the Ukraine?

A. Yes, there were Russians from the other parts of Russia.

Q. Did that unrestricted liberty, or rather the liberty with which they were allowed to mix with the population and German workers, did that continue until the end of the war?

A. Yes, until the moment when the Gestapo ordered that all eastern workers were to withdraw with the retreating armed forces.

Q. When was that?

A. In February 1945.

Q. How many of these eastern workers were there in Essen, approximately, when the greatest number was there?

A. I think perhaps, 7,000.

Q. Now, did the Krupp officials, or any government officials or anyone else, place any restrictions upon them about talking with the German workers, or mixing with them or the population there in Essen?

A. No, I know nothing about any such regulation.

Q. If there had been any objection to their mixing with the Germans, do you think you would have known of it?

A. I would have found out immediately.

Q. Did you ever hear anyone express the view that, if these eastern workers were allowed to mix with the Germans, the Germans might become infected with communism?

A. This fear was not held with regard to eastern workers.

Q. Then so far as you know there was no necessity at all for restricting the liberty of these eastern workers in any way?

A. No, as far as I know there was none.

Q. Did you ever discover any evidence that there was likely to be a revolt among them toward January 1945?

A. No, I never heard of anything of this nature, anything of this kind.

Q. Did you ever see any conduct on the part of them, or any of them, that would indicate that it was necessary to discipline them with steel switches?

A. No, there were no such people there.

Q. Do you know whether or not the defendant Kupke distributed among the guards or the foremen steel switches in these plants in which the eastern workers were employed, or billeted?

A. I never heard of that.

Q. You were the spokesman of the eastern workers I understand.

A. Yes.

Q. One further question. How did these workers arrive, were they under guard when they got there?

A. When they arrived at the station one member of the Krupp plant police was there who showed them the way to the camp.

Q. Had they been guarded on the train en route to Essen?

A. I know nothing about that.

Q. Did you ever know about any of these camps being patrolled by armed guards—any of the camps around Essen?

A. Yes, the guards which had night duty were always armed, I didn't notice that in the daytime.

Q. Do you mean the guards around the camps were armed?

A. I know nothing about whether there were guards around the camp. I always saw one guard, he was near the office.

* * * * * * *

Q. Witness, did you learn from your weekly visits to these camps among the Slavs whether or not they, or any of them, came voluntarily or involuntarily? What I want to know is whether or not any of these foreign workers were brought to Germany involuntarily.

A. They came voluntarily.

Q. All of the eastern workers in Essen during your stay there, so far as you know, and so far as you could judge from your conversation with them, came voluntarily?

A. May I be quite frank?

Q. Well, that is what I want you to be.

A. The terrible distress of the past few years in Russia was so great that when I talked to these workers they told me, "Please don't get excited Mr. Arbatoff, many more volunteers will come after us to work here."

Q. Now, Mr. Witness, I didn't ask you that. I just asked you

whether or not you had any knowledge of any eastern workers during your stay in Essen having come there involuntarily, having left their homes involuntarily and having been brought to Germany to work?

A. No, I know nothing of such.

Q. Well, now upon the other hand, from your conversations with them and what you could learn otherwise, your opinion is that all the Slavs that had been working in Krupp Essen had left their homes and came voluntarily to work in Germany?

A. No, not only at Krupp, but they worked all over Germany, and I only had to deal with, and I only know of eastern workers at Krupp.

Q. Well, evidently there must have been some error in the translation because I didn't ask you about anything except Krupp. I am trying to find out about the eastern workers at Krupp, nowhere else.

Now, you talked with them extensively, didn't you?

A. Yes, but not with all of them.

Q. Well, now, you are of the opinion that all of them that worked there in Essen at the Krupp factory, or the Krupp enterprise, left their homes voluntarily to come to Germany to work?

A. From the people with whom I talked, I got the impression that they had come voluntarily. Of course, I couldn't talk to all 7,000 of them.

Q. Well, do you know from your experience at Essen, do you know of any workers, other than German workers, who had come there involuntarily?

A. No, I spoke very little to other people.

JUDGE ANDERSON: That's all.

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D. Special Training or Penal Camps for Foreign Workers Employed by Krupp

I. CONTEMPORANEOUS DOCUMENTS

PARTIAL TRANSLATION OF DOCUMENT NIK–13364
PROSECUTION EXHIBIT 1364

EXTRACT OF REPORT ON A MEETING OF KRUPP ADMINISTRATIVE OFFICIALS HELD 19 SEPTEMBER 1942, CONCERNING BARRACKS CONSTRUCTION AND THE PLAN TO PROVIDE A SPECIAL ARREST BARRACKS FOR DETAINEES

Notes on the Discussion Held on 19 September 1942
Concerning Completion of the Barracks Camp

Present:

Dr. Beusch
Civil Engineering Office: Frisch, Mennicken, Lipsius
Housing Department: Lauffer
Cooperative Stores: Laurich, Hahn
Plant Police: Hassel
Administrations: Schulz

a. State of construction of barracks (encl. 1–6).

b. Development of the erection of the barracks (encl. 7).

c. The following viewpoints were particularly discussed:

1. Fire protection. For the next discussion a representative of the fire brigade shall be invited.

2. Concerning the employment of construction workers, Mr. Frisch will make a written report which will among other things also refer to the selection of trained building workers. *Mr. Lauffer will write for the Housing Department regarding the question of labor allocation.*

3. At the Bottroper Strasse the corrugated iron hut for kitchen supplies must be rebuilt. The coke stores will have to be kept in the open air. The cooperative establishment must be removed from the coal-house. The rebuilding of the corrugated iron hut will be taken over by Mr. Frisch. *Order must be placed by the Housing Department.*

4. It is planned to provide a special arrest barrack, where the punished detainees will be centrally lodged. The planning will *be taken on by Mr. Lauffer.*

* * * * * * *

[Stamp] Signed: BEUSCH

TRANSLATION OF VON BUELOW DOCUMENT 311
DEFENSE EXHIBIT 1359

TELETYPE OF THE GESTAPO CHIEF, SS GENERAL MUELLER, 20 JULY 1943, CONCERNING WORKERS' TRAINING CAMPS, NOTING THESE CAMPS "ARE EXCLUSIVELY A POLICE MEASURE"

SECRET STATE POLICE, STATE POLICE REGIONAL HEADQUARTERS DUESSELDORF

Received
Day, month, year, time
20 July 1943, 2230
From: Through: R.
L No. 7001
Place for "Received" stamp.
State Police Regional Headquarters Duesseldorf
21 July 1943/II/L

IIL–D10/2–Journal No. 263/428

Telegram-Radiogram-Teletype-Telephone
* * * BERLIN NUE 129 618 20 July 1943, 2000—Fr—
To all Inspectors of Security Police and Security Service (SIPO and SD)
To all Directing STAPO Offices
Subject: Inspection of workers' penal camps by Gau supervisors of the German Labor Front

Secret

Confidential information has been received that, on account of a complaint by the Foreign Office on the manner of treatment given to inmates in workers' penal camps, the German Labor Front has, in a "strictly confidential" circular letter, requested Gau supervisors to report on conditions in these workers' penal camps. In addition, efforts are being made by various Reich offices to send representatives to individual camps in order to make the most of any detrimental observations which may have been made against the Security Police. I therefore request approval of requests for inspections of workers' training camps by offices of the German Labor Front or labor allocation offices to be granted only where this appears advisable in the interest of collaboration and where it can be assumed that these inspections will not be utilized for reports detrimental to the Security Police and, above all, the installation of the workers' penal camps. Furthermore it is to be recommended that the chief of the State Police office or his deputy be present at such inspections. Should representatives of other offices, in particular of the Propaganda Ministry, request permission for an inspection, an ascertainment

of facts or "examinations" in the workers' penal camps, such requests should be refused with the explanation that they cannot be granted without approval by RSHA [Reich Security Main Office], since these workers' penal camps are exclusively a police measure. Reports are to be sent here without delay on all cases of inspections of workers' penal camps justifying suspicion that material against the Security Police is being collected, and furthermore on all observations made in this connection.

Supplement for Gestapo Headquarters Frankfurt/Main:

Further reference will be made to your teletype of 29 June 1943—7005—RSHA—IV D–304/43 c–656–(Foreign Workers)

LA SIGNED MUELLER, SS Gruppenfuehrer.

TRANSLATION OF DOCUMENT NIK–15377
PROSECUTION EXHIBIT 1537

INTEROFFICE MEMORANDUM, DICTATED BY DEFENDANT VON BUELOW, 11 OCTOBER 1943, CONCERNING EARLY PLANS TO ESTABLISH A PUNITIVE CAMP FOR FOREIGN WORKERS AT DECHENSCHULE

Cast Steel Works, 11 October 1943
v. B. [von Buelow]/Ste.

Subject: Establishment of a punitive camp

[Initial] W [WILSHAUS]
10 November

On principle we are prepared to establish a punitive camp [Straflager] in the former Dechenschule [camp], but according to the following policies:

1. The house is partially demolished, reconstruction will take 2 months. The possibilities to equip another camp have been investigated in detail. Primarily as a result of the arrival in large numbers of Badoglio soldiers, everything is already overcrowded. Is it possible for the city or the State Police to give us another camp? However, this would have to be favorably situated with respect to the factory.

2. Camp management, administration and operations are directed by our main camp administration which is responsible for the condition of the camp, discipline, etc.; based on the fact that Mr. Kupke as counterintelligence agent is responsible in intelligence matters to me as chief counterintelligence agent for close cooperation between the main camp administration and the plant police. Wherever necessary the plant police would be summoned or would intervene. *However, I should like to have one or two men provided by the police for controlling supervision over the*

actual camp management. The nature of this cooperation is still to be discussed.

3. The camp would be used at first only for foreign personnel, not for Germans too. We absolutely must begin on a small scale; I would say 100 men at the most. Whether and at what rate we will then expand the camp, will have to be investigated in due course. There must be a certain permanency in the complement of the camp; of course it would not do to have people assigned to our camp only for a temporary stay, i.e., less than 1 week. For this the job of administration and everything else otherwise connected with reception of personnel is too difficult in an efficiently regulated camp.

4. Only Krupp (foreign) personnel would be assigned to the camp.

5. If inconveniences should arise, the camp would have to be dissolved again.

6. Jobs for these persons are primarily the digging of pools for fire fighting and the dumping of trash upon the slag heap of our foundry.

PARTIAL TRANSLATION OF DOCUMENT NIK–15376 PROSECUTION EXHIBIT 1538

MEMORANDUM FROM DEFENDANT VON BUELOW TO KRUPP'S CONSTRUCTION ENGINEER SUHLRY, 11 JANUARY 1944, EXPRESSING SATISFACTION WITH THE PROGRESS MADE AT DECHENSCHULE AND MAKING CERTAIN REQUESTS

Copy

Cast Steel Works,
11 January 1944
v.B./S. HAbwB–No. 86/II

To: Mr. Suhlry

Subject: Special camp Dechenschule

This morning Mr. Wilshaus and I were at the Dechenschule We were pleased to see the good progress of work. We only wish to make the following requests:

1. It is essential that all windows on the first floor be fitted with iron bars as requested by the State Police. We learned through talking with the workmen that it was not expedient to fasten them inside, since then ventilation so absolutely necessary for the large complement would be impossible. The iron bars for fitting from the outside are on hand as we heard from the workmen; only a scaffold has still to be procured. Would it be possible to furnish such a scaffold for this job? If the iron bars

were fitted window by window, I think that only a few ladders and suitable boards would be necessary.

2. On the west side, the grounds are badly damaged—former toilet installations. The inmates of the special camp will be able to clear this up later. Only a roof would have to be made; it is not necessary to repair the toilet and washing facilities; the premises would simply be used as a storehouse.

3. The provision of a reinforced air raid shelter for the guards, i.e., about 30 men is absolutely essential. In our opinion this would be the best solution; the inmates would dig a deep foundation pit on the actual school square. This would be cemented by building operations. The soil dug out will be placed upon the cement ceiling by the camp inmates. In addition, and this has already been discussed with you, two steel guardhouses should be built underground for the guard posts. This could probably be discussed in more detail on the spot.

Signed: VON BUELOW

PARTIAL TRANSLATION OF DOCUMENT NIK–9803 PROSECUTION EXHIBIT 1095

EXTRACTS FROM REPORT ON A CONFERENCE OF KRUPP LABOR OFFICIALS, 12 JANUARY 1944, INCLUDING REMARKS BY DEFENDANT VON BUELOW ON HANDLING FOREIGN LABORERS

Fried. Krupp, The Labor Allocation Officer

Distribution:

Date: 12 January 1944
No. 5

A.v. Bohlen, Goerens, Houdremont, E. Mueller, Janssen, Ihn, Eberhardt, Rademacher, Girod, Aye, Becker, Blume, Buecking, von Buelow, Creutzfeldt, Delere, Dolhaine, Eickhoff, Gottlob, Jaegers, Greuner, Gummert, Herfort, Hintz, Klamma, Klinger, Kraus, Lehmann, Meier-Bornkamp, Meise, Nehring, Schick, Schmidt, Schulz, Schrader, Sixt, Suhlry, Willeke, Wolf/v [sic]

[initial illegible]

Responsible for action:

File Note

Subject: SAI [Special Labor Allocation Engineers] Conference
Occasion: Conference on 12 January 1944
Present: Messrs. Aye, Hintz, Senff,

Becker,	Ilz,	Sieberkrop,
Blume,	Jaegers,	Sixt,
von Buelow	Klamma,	Specht,
Creutzfeldt,	Klinger,	Stahmer,
Delere,	Lehmann,	Stratmann,
Dolhaine,	Mette,	Treusch,
Eickhoff,	Nehring,	Trockel,
Gottlob,	Schick,	Willeke,
Heimann,	Schmidt,	Wolf.

Opening the proceedings, Mr. Hintz remarked that at the request of Mr. Ihn, Messrs. von Buelow, Mette, Stahmer, Vossieck, and Kupke will at today's discussion give short reports to the special labor allocation officers about their respective spheres of work; and then Mr. von Buelow gave his lecture on the combating of shirkers.

* * * * * * *

Foreigners must be treated with greater severity and strictness. For them, punishment away from work is especially suitable. Dechenschule will become a penal camp for eastern workers and Poles, under the supervision of the Gestapo. They are to be in charge of the main camp administration and plant police. Special labor allocation officers were invited to enumerate heavy and dirty work for which these foreigners may be used in groups of 50–60, reports to be made to Mr. von Buelow.

It was stated that not German personnel but predominantly foreigners shirk away their time or commit breach of contract. Of about 25,000 foreigners at the beginning of 1943, only about 12,500 still remain in the Cast Steel Works. From the middle of August to the end of December, 486 men absented themselves from the tank plants. Of these 139 men in 1 month from Tank Construction Shop 3, equal to 10 percent of the staff. If these foreigners returned, they would just about cover labor requirements.

An application for special leave from Italian civilians is *prima facie* untrustworthy.

Frenchmen are refusing to extend their contracts. Berlin, in connection with other firms, must be made aware once more that stricter measures must be taken for personnel returning from leave (Frenchmen). In spite of Sauckel's intervention, the returns are difficult to enforce, especially in France where there is no police registration. Reports from France indicate that Frenchmen who have broken their contracts experience no difficulty in obtaining work in France.

* * * * * * *

[Signature illegible]

TRANSLATION OF DOCUMENT NIK–15383
PROSECUTION EXHIBIT 1599

FILE NOTE SIGNED BY DEFENDANT VON BUELOW, 15 MARCH 1944, ON A CONFERENCE OF REPRESENTATIVES OF THE GESTAPO, THE LABOR OFFICE, KRUPP'S CAMP ADMINISTRATION, AND KRUPP'S PLANT POLICE, CONCERNING PRISONERS AT DECHENSCHULE AND ESTABLISHMENT OF ANOTHER "SPECIAL CAMP"

Cast Steel Works, 15 March 1944

v.B./S. HAbwB [Chief Counterintelligence Agent] No. 800/II

File note of the conference at the Dechenschule on 14 March 1944.

Present:

Nohles, State Police
Bovensiepen, State Police
Aurich, State Police
Pickert, Labor Office
Starke, Labor Office
Specht, Office for Labor Allocation I
Trockel, Office for Labor Allocation A
Gottlob, Main Camp Administration
Wilshaus, Plant Police
Hassel, Plant Police
von Buelow,

Subject: Special camp Dechenschule

The problem of the use of this camp, specially with regard to simultaneous lodging of eastern workers and Poles, female eastern workers and western workers was discussed with the following result:

1. The State Police will move the eastern workers, Poles, and female eastern workers and transfer them to the municipal camp Suederichschule. In the case of prisoners, who have proved their worth and whom we should like to employ at the Cast Steel Works we could submit applications for suspension of their remaining sentence with the request to have them assigned to us.

2. The western workers are to remain in the camp; the labor office will direct more of these western workers to us. They will be mostly people guilty of breach of labor contracts who have been apprehended in Belgium and France by the military authorities. They are to be treated as prisoners and at first will work only in groups and under guard. If they prove reliable we may consider employing them individually without guards. The camp is to remain under the supervision and at the disposal of the State Police.

3. Since one may count on allocation of many more of these Belgians and Frenchmen and for this reason the main camp administration will open another special camp in the Kapitaen-Lehmann Strasse. Completion by the end of April. The plant police will take over guard duty as in the Dechenschule camp. The question of the guard personnel has not yet been settled. Main camp administration will help as far as possible. The labor office will also endeavor to assign to us personnel suitable for guard duty.

4. The State Police will probably continue to send loafing western workers to the camp. They are to be treated in the same way as contract-breakers. These will also be sent to the Dechenschule camp.

5. No wages, but sickness and accident insurance to be paid by us.

6. Finally I pointed out to Kriminalrat Nohles that the question of labor allocation is decisive for us and that we would like to secure these valuable French workers for ourselves for this reason.

[stamp] Signed: VON BUELOW

Copies to: Trockel, Specht,
Wilshaus, [initialed] Ws 20 March, Kupke
[Handwritten]

Please prepare these applications in good time and keep me informed on general lines (figures, reasons).

Please continue endeavors to secure guards

Reference: Concerning insurance of the prisoners (par. 5) please contact Mr. Trockel.

[Signed] VON BUELOW

TRANSLATION OF DOCUMENT NIK-13093
PROSECUTION EXHIBIT 1366

MEMORANDUM FROM DEFENDANT VON BUELOW TO KRUPP'S PLANT POLICE CHIEF, 30 MARCH 1944, CONCERNING AGREEMENT WITH STATE POLICE THAT KRUPP COULD LOCK UP EASTERN WORKERS IN CELLS OF CAMP DECHENSCHULE

Cast Steel Works, 30 March 1944
v./B./Ste No. 878/II HAbwB
[Initialed] W [Wilshaus]
31 March

[To] Mr. Wilshaus

Subject: Detention cells [Arrestzellen] for eastern workers

I asked Kriminalrat Nohles whether we may lock up eastern workers in the cells of the Dechenschule camp, although the latter

is at present occupied by western workers. They would for all practical purposes never come into contact with the western workers. Mr. Nohles agreed to that. I arranged with you that in those cells only *such eastern workers* shall be locked up to whom you—perhaps after *getting the permission from the State Police, or by order of the State Police—had given the punishment.* It would always concern only penalties of very short duration. Preferably eastern workers from the *plants* would be liable who have been reported to you for lack of discipline.

Considering the small number of those cells, it is in any case impossible for Mr. Kupke to send to you men whom he has punished for crimes in the camp, etc. For those he has to get cells himself. Please inform Mr. Kupke to this effect.

[Signed] VON BUELOW

(1) Copies to:
1. Mr. Kupke, Main Camp Administration, pointing out the agreement of 15 April 1944—removal of refuse by eastern workers.
2. Mr. Fuehrer.

(2) To the files

[Initial] W [Wilshaus]

TRANSLATION OF DOCUMENT NIK–15367
PROSECUTION EXHIBIT 1505

MEMORANDUM FROM DECHENSCHULE CAMP LEADER TO KRUPP'S PLANT POLICE CHIEF, 25 MAY 1944, CONCERNING RECONSTRUCTION OF DECHENSCHULE AFTER AIR RAID DAMAGE, WITH COMMENTS OF DEFENDANT VON BUELOW AND OTHER KRUPP OFFICIALS

Special Camp of Secret State Police

Essen, Dechenschule

25 May 1944

To Plant Police Krupp
Mr. Wilshaus
Essen

Subject: Reconstruction of S-camp Dechenschule

The present camp population counts 166 people.

As the premises destroyed during the last air raid have been reconstructed it is even at the present stage of the reconstruction work possible to take in 70 additional persons. Work is also being done on three rooms which will be ready shortly. In this connection the delivery of 35 square wooden blocks, each 7 m. long,

is urgently required. The construction offices of Mr. Suhlry* have declined to supply them, as a result of which it is doubtful whether building work can progress further.

It is requested that you bring your influence to bear on Mr. Suhlry so that the 35 wooden blocks will be supplied as a final delivery and the work can be continued and completed. Continuation of the work means that the completing of three rooms will be possible with a total space capacity for 135 persons within a fortnight at the latest. The total capacity of the camp in that manner can be increased to 400 persons.

I also wish to point out that the allocation of foreign laborers through the labor office is completely determined by the capacity of special camp Dechenschule.

[Signed] FUEHRER
Camp Leader

[Stamp] Special Camp of the Secret State Police
Essen
Dechenschule

Passed on to Mr. von Buelow

I was just informed by Mr. Fuehrer that instead of the 50 prisoners scheduled by the labor office only 25 arrived yesterday. The firm of Krupp might, perhaps, have been given better service had one been able to advise the labor office long before this that we could use so and so many prisoners. This, however, we were unable to say since the housing facilities were not in shape. One either should see to it now that camp Dechenschule is being supplied the material needed for reconstruction work without there being made any difficulties or the firm of Krupp will have to give up the idea about additional allocations of prisoners.

W.S. [Werkschutz] 26 May 1944
Ws/Va

[Handwritten] According to discussion (with Mr. Schmidt) this is being returned 26 May.

[Signed] VON BUELOW

30 May 1944

1. Mr. von Buelow came to see me on 27 May 1944. We have discussed the case. Thereupon Mr. von Buelow got in touch with Mr. Schmidt of the construction offices, explaining to him the urgency of the case. Mr. Schmidt saw the point and has promised that the 35 side posts will be supplied for special camp Dechenschule.

To replace them the camp leader will return five square wooden blocks, 6 m. long each, 12 square.

2. for the files.

[Initial] W [Wilshaus]

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* Suhlry was Krupp's construction engineer .

PARTIAL TRANSLATION OF VON BUELOW DOCUMENT 471 DEFENSE EXHIBIT 1363

LETTER FROM A GERMAN INDUSTRIAL ACCIDENT INSURANCE ASSOCIATION TO THE POLICE PRESIDENT OF ESSEN, 8 JULY 1944, INQUIRING ABOUT CAMP DECHENSCHULE, AND A REPLY BY WILSHAUS, KRUPP WORKS POLICE CHIEF, EXPLAINING ITS NATURE

To the Police President, Essen

8 July 1944
2738/44 Brisbois

We hear that a disciplinary camp for foreign shirkers has been established in the Dechenschule, Essen-West, Dechenstrasse under the supervision of the Gestapo.

Will you please inform us whether the inmates are political civilian internees or penal prisoners subject to the prisoners accident insurance law of 30 June 1900,* or prisoners of war in civilian internment, insured under the Reich Insurance Order.

[Stamp] Foundry and Rolling Mill Mutual Association
Section 1
The Management

[Signature illegible]

Fried. Krupp Plant Police Essen,
Thomaestrasse 100

Essen, 14 July 1944
Ws/Va. Journal No. 1083
[Stamp] 19 July 1944

Foundry and Rolling Mill Mutual Association,
Section 1, Reich Accident Insurance
Essen

Your letter of 8 July 1944,—A.Z. 2738/44 Brisbois—subject prisoners in Dechenschule special camp—which was addressed to the Police President of Essen, was forwarded to us in the original for reply.

The Dechenschule camp is a labor discipline camp, supervised by the Gestapo and guarded by the plant police. In general, the Gestapo and Wehrmacht place only such western workers in this camp, as have been sentenced to labor discipline camp for loitering, breach of work contract, or absenteeism, etc. The majority of the prisoners are assigned by the Wehrmacht. They are, as it

* The Prisoners Accident Insurance Law of 30 June 1900 provided that persons who, while serving a prison sentence, were employed in certain occupations, had to be insured against accidents. The Foundry and Rolling Mill Mutual Association was one of the associations administering industrial accident insurance.

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were, elements upon whom a corrective influence is to be exerted in the labor discipline camps, and the term served in such a camp does not count as punishment in the sense of the criminal code.

Fried. Krupp Plant Police
[Signed] WILSHAUS

PARTIAL TRANSLATION OF VON BUELOW DOCUMENT 590 DEFENSE EXHIBIT 2999

LETTER FROM NOHLES,* ESSEN GESTAPO CHIEF, TO DEFENDANT VON BUELOW, 11 JULY 1944, TRANSMITTING CAMP RULES, HOUSE RULES, AND SERVICE REGULATIONS FOR RECEPTION CAMP DECHENSCHULE; AND LETTER BY DEFENDANT VON BUELOW TO WILSHAUS, 17 JULY 1944, COMMENTING ON THEM

Secret State Police
State Police Regional Office Duesseldorf
Branch Office Essen
B.–No. IV 1 c 5301/44

Essen, 11 July 1944
[Stamp]
No. 684 HAbwB./I
Received 14 July 1944

To: Chief Counterintelligence Agent of the Krupp firm, von Buelow in Essen

Subject: Camp rules with house rules and service regulations for the reception camp [Auffanglager] Dechenschule

Reference: None

Enclosures: 6

Enclosed herewith are two copies of the new camp rules, house rules, and service instructions for the reception camp Dechenschule. One copy of each of them is for the camp, the other one for the plant police.

Please have the house rules translated into the language of the camp inmates' country (French, Dutch, and Polish) and posted in the camp.

BY ORDER: [Signed] NOHLES

Secret State Police
State Police Regional Office Duesseldorf
Branch Office Essen

Essen, 11 July 1944

* Nohles gave an affidavit (von Buelow 542, Def. Ex. 1362) to the defense which is reproduced in section VIII D 4.

The State Police Regional Office Duesseldorf, Branch Office Essen, has established at the Krupp firm in Essen, as of 1 February 1944, a State Police reception camp for foreign civilian workers (except eastern workers) who have broken their labor contracts, under the provisions of the following camp rules:

Camp rules

For the State Police reception camp at the Krupp firm in Essen, Dechenstrasse 22

I. General

The State Police reception camp for male foreigners has been established at the Dechenschule. Accommodation and food is supplied by Krupp. The camp is supervised by the State Police Regional Office Duesseldorf, Branch Office Essen, which also provides an official for the control of the camp.

The camp can be reached by telephone under the number Essen 20597.

II. Camp guard

The camp guard is provided by the plant police of Krupp. Service and duties of the camp guard are laid down in the "Service regulations" by the State Police Regional Office Duesseldorf, Branch Office Essen.

The camp leader is superior of the camp guard.

III. Term in camp [*length of confinement*]

Male foreign workers (except eastern workers) who have appeared for some reason in the files of the State Police, will be confined at the reception camp Dechenschule. The term in camp is fixed by the Secret State Police. It ends on the day of return to the proper employer. For internees who escaped during their term, were captured after their escape, and put into the camp again, the time begins anew on the day when they were brought for the second time into the camp. The internees will be especially marked and have no right to any privileges.

IV. Working hours for the internees

The internees will be turned over according to contract to the firm of _____ for employment. Working hours according to the directive of the inspector of the Security Police and the Security Service in Duesseldorf are up to 12 hours depending on the season of the year.

Work on Sundays and holidays is permitted.

There will be no pay for the work performed.

V. Health insurance and accidents during work

Inmates of the camp enjoy the same medical care as foreign workers employed at the factory, but at the expense of the employing firm. (Plant physician.) If within the medical care hospitalization becomes necessary the costs of the treatment from the day of reception in a hospital will be put to the account of the police. It is the duty of the employing firm to insure the inmates of the reception camp in a proper manner against accidents with the competent cooperative association. The competent police physician is in charge of the medical care for the camp besides the plant physician of Krupp. In cases of death the police physician, medical examiner, and the State Police Regional Office Duesseldorf, Branch Office Essen have to be notified immediately by telephone.

[Handwritten marginal note]

See correspondence with Health Insurance, special file. [Illegible initial]

Immediately after their confinement, the internees have to be brought before the plant physician for examination. If there are individuals among the inmates who in the opinion of the plant physician are unfit to stay in the camp, the confining State Police office will be notified about it immediately.

VI. Punishments in the camp

In cases of violation of internal camp rules, unruliness, maliciously bad working performance, and other offenses against order, the camp leader according to the decree of the Chief of the Security Police and of the Security Service from 12 December 1941—II E 3 No. 9466/40–273–IV C 2 No. 40695—may administer punishments as follows:

1. Reprimand.
2. Deprivation of warm noon meals up to 3 times, every other day.
3. Deprivation of warm noon meals up to 4 times in a row.
4. Deprivation of bed up to 3 times in a row.
5. Assignment of additional work up to 5 days; the total work shall not exceed 16 hours.
6. Imprisonment for a period of 2 weeks maximum.

Every punishment has to be noted in the punishment book. For the punishment ad 6. the permission of the State Police is necessary. The treatment of the internees has to be strict, although correct and just.

VII. Reception and release of internees

At the delivery of internees the delivering agency has to submit a reception form filled out according to a prescribed pattern. The

date of release and the proper employer are to be noted on the reception form.

VIII. Checking and keeping of civilian clothing and valuable items

* * * * * * *

Secret State Police
State Police Regional Office Duesseldorf
in Duesseldorf
[Stamp] Field Office Essen

House rules

For the reception camp Dechenschule

1

Camp internees have to obey immediately and unconditionally all orders of the camp leader, the camp guard and the camp personnel.

2

The camp leader appoints camp seniors from among the camp internees whose orders, issued only on the occasion of the camp leader's instructions, have to be complied with.

If the camp leader, or other superiors, enter the quarters in the camp, the camp senior has to report, standing at attention. The prisoners have to stand up at the order "attention."

3

Strictest quiet has to reign in the camp, any loud conversation, singing, whistling, music, card games, and games of hazard, are strictly prohibited. The use of camp beds during daytime is prohibited. Exceptions are allowed only with the permission of the camp leader.

4

All internees are obliged to keep themselves, the camp, and the installations in the camp, perfectly clean. This is supervised by the camp seniors who are responsible to the camp leader.

5

Any wanton damage of the camp and of articles in the camp, including the camp fence, is prohibited.

6

Any political conversation is strictly prohibited and will be punished. Gatherings, anti-German conspiracy, insulting the camp personnel, or fights among the internees will be punished in a particularly severe manner.

7

During working time the internees have to obey the instructions of the supervising personnel. Negligent work and undisciplined behavior will be most severely punished.

8

Articles not belonging to the camp must not be brought from work outside the camp. It is also forbidden to bring in any kind of food, tobacco, etc. Exceptions, however, are granted with the permission of the camp leader.

9

Any mail is prohibited.

10

In case of air alarm, the orders of the camp guard are to be complied with immediately.

11

Any violation of the camp regulations will be punished with imprisonment, extended stay in the camp, deprivation of warm food, or with special fatigue duties; in severe cases, with confinement in a concentration camp. Therefore, each camp internee is to observe the camp rules very strictly, and to report immediately violations thereof to the camp leader or the camp supervisors; anyone who fails to do that will be punished himself.

Secret State Police
State Police Regional Office Duesseldorf
in Duesseldorf
Branch Office Essen

Service regulations

For the guard of the reception camp Dechenschule

I. General

Disciplinary labor camp and reception camp Dechenschule is subordinate to the Secret State Police, Secret State Police Regional Office Duesseldorf, Branch Office Essen. The agency in charge of IV 1 c (A), Chief: Krim. Insp. Schroeder.

II. Camp guard

The camp guard is provided by the plant police of the Krupp firm.

III. Purpose of the guard

a. Securing and guarding the camp by day and by night.

b. Accompanying internees on their way to and from work.

c. Guarding internees during work, at the place of work and in the camp.

d. Reporting of the slightest incidents, like violation of the camp rules, unruliness, and maliciously bad working performance. Accidents are to be reported in writing immediately.

All reports are to be made to the commander of the guard.

IV. Clothing, equipment, weapons

This is settled by the regulation concerning the plant police of Krupp.

V. Tasks of the commander of the guard

The chief of the plant police appoints a commander of the guard for the camp guard. He is in charge of the performance of the morning and evening roll call, and of establishing the presence of the internees. He is responsible for the preparedness of the guard detail for duty and action. Further tasks of the commander of the guard are:

a. Duty roster of the guards and keeping of the guard book.

b. Assignment of the daily work details.

c. Daily checking of the camp as to cleanliness, particularly of the sanitary installations.

d. Daily checking of the black-out.

e. Checking of the guards. Checks are to be noted in the guard book.

f. Forwarding of reports about special incidents to the camp leader.

VI. Tasks of the guards

After the morning roll call the guards take over the internees assigned to them and have to watch them all the time, guard them strictly and to prevent any escape. Intensive work efficiency is particularly to be taken care of.

Individual conversation between guards and internees, especially exchange or purchase of items between them, is strictly forbidden. Also any intercourse of internees with private individuals is prohibited. Violations of this directive committed by the guards will be punished by strictest State Police measures.

VII. Service manuals of the guard

The following service books are to be kept:

1. Guard book and diary about special incidents.
2. Duty roster with notes of daily reports.
3. Punishment book.
4. Deposits book.

VIII. Use of weapons

At the slightest sign of unruliness and disobedience, ruthless action has to be taken, also fire arms have to be used relentlessly to break resistance. Escaping internees are to be fired at immediately with firm aim to hit them. Otherwise weapons are to be used according to legal rules valid for the police.

IX. Entering [visits to] the camp

Entrance into the camp is permitted for duty only, otherwise with the permission of the camp leader.

Permission for relatives etc., to see the internees is given by the State Police in urgent cases only. Conversation can take place only in the presence of a supervisor. Items given on such occasions for the internee are to be turned over to the camp leader who takes further action.

X. Conduct during air alarms and fire

In cases of air alarms, rules valid for the camp and the Krupp firm are applied. The internees remain in their quarters with the lights turned off until their transfer by the guards to the air raid shelter. In cases of willful violation of black-out regulations, or similar sabotage actions, firearms are to be used immediately. In case of fire the internees are to be used under the direction of the commander of the guard for salvage and fire fighting. Greatest care must be taken to prevent escapes.

XI. Complying with the service regulations

After 4 weeks each member of the guard has to certify by a signature under the service regulations that he has been informed about the service regulations, that he has read them himself, and that he binds himself to comply conscientiously with the directives thereof. Violations of the guard instructions will be punished according to pertaining penal rules or with State Police measures.

Secret State Police
State Police Regional Office Duesseldorf
in Duesseldorf, Branch Office Essen

[To] Mr. Wilshaus

Cast Steel Works, 17 July 1944
v.B./S. HAbwB–No. 684/I
[Stamp]
Plant Police
18/7/44

Subject: Dechenschule

Enclosed I am forwarding to you the letter of the Stapo [State Police], of 11 instant with pertaining enclosures. The following points strike me in the enclosures:

1. Prohibition to smoke—In this matter we had decided that Dechenschule inmates who behave well for at least some weeks (how many weeks?) are allowed to smoke; these men would be put into a separate room. Please clarify that with the Stapo.

2. Section 9 of the house rules—As to mail, some privileges, too, were to be introduced for well-behaved internees. This, also should be clarified.

3. Section VII of the service regulations, service books—Have all these books been prepared? I should like to have a look at them some time.

4. Section III of the camp rules—The rule that the term of recaptured escapees is to be counted from the day of the second detention at the camp seems important to me.

5. Section V of the camp rules—Health insurance and accidents at work. Are these regulations proper?

[Signed] VON BUELOW

Enclosures

2. PROSECUTION TESTIMONY AND AFFIDAVIT

EXTRACTS FROM THE TESTIMONY OF PROSECUTION WITNESS FATHER ALPHONSE COME*

DIRECT EXAMINATION

* * * * * * *

MR. THAYER: May I ask also whether or not there was some indication within the camp of Dechenschule of the name of Krupp —did the name Krupp, K-r-u-p-p appear anywhere within the camp?

WITNESS COME: On the blankets.

Q. While you were at Dechenschule, Father Come, did you wear a priest's habit?

A. I had given up my soutane, or priest's habit, at the station of Arlon, and had gone to Dechenschule in civilian clothes. When I arrived in Dechenschule, my own civilian clothes were taken away from me, and I got the blue or gray with yellow stripes—that is, the uniform of the convict.

* Extracts from this testimony concerning the circumstances under which Father Come was brought to Dechenschule from Belgium are reproduced in section VIII B 2. Complete testimony is recorded in mimeographed transcript, 2 and 3 February 1948, pp. 2968–3012.

Q. When you say, Father Come, that you gave up your priest's habit, do you or do you not mean that your priest's habit was taken from you?

A. No, I mean to say that I had given it up voluntarily, but I do know another priest who had arrived at the camp before me—I want to imply here that there were three priests at the camp—this priest, by the name of Robert Nicolas de Medellier, had taken his priest's habit along and it had been taken away from him in the camp.

Q. In the camp?

A. Yes, in the camp.

Q. You say you were given convict's clothes at Dechenschule, is that a uniform which had a yellow stripe on the back of it?

A. Yes, there was a yellow stripe on the back, there was also a yellow stripe on the chest, and also a yellow stripe on each of the knees.

Q. Can you tell the Tribunal how that yellow stripe was put on or renewed every now and then, and the manner of indignity of that procedure?

A. Yes, it would happen that if they noticed a prisoner had taken off part of these yellow stripes, and if a guard noticed it or somebody from the office noticed it, he would come along with a color pot and have fun putting on the color again—running after him and putting the color on.

JUDGE WILKINS: Color, did I get that?

MR. THAYER: Paint, I think, would be a better translation.

Were you locked in at night in Dechenschule?

WITNESS COME: We were locked in as from 8:30 p.m. until 4:30 a.m.—locked in with lock and chain.

Q. During the rest of the period were you free to come and go, or were you restricted?

A. At 4:30 o'clock in the morning the guard would open the rooms, unlock and shout in there "Aufstehen" which means "get up." He would come in with a piece of rubber hose which he would use for those who were not quick enough for his tastes. Between 5 o'clock and 5:10 a.m. there would be the first morning gathering. I wouldn't call it a roll call because no names and numbers were called at that time; it was therefore only a gathering and did not last very long. It was simply that so and so many, what they called "Stuecke", so and so many pieces of human material would be counted, pointed out for certain detachments, and as soon as there were sufficient persons for that detachment, the guard would make them form ranks and then would march them to the factory section in question in silence.

The work started at 6:00 a.m. There was a break between

9 o'clock and 9:15 and—that is, a.m.,—another break between 1 o'clock and 1:30 p.m. and the work would stop according to the various detachments between 5:30 p.m. and 6:00 p.m. after which the detachment would be brought back by the guards also in ranks and also in silence—back to the camps.

Again, there was only a gathering and only the numbers were called up, that is, not the numbers of the prisoners, but they were simply counted to see that the same number came back from the detachment as had gone to the detachment. Then, between 6 o'clock and 6:30 p.m. before that, first the first soup distribution, and then between 6 o'clock and 6:30, when all the detachments had come back from work there would be the evening roll call. This time it was a real roll call, very long, sometimes even endless and only after that there was the distribution of the second ladle of soup and also of the bread ration which had to last until the next evening. Then, at 7:30–8 o'clock one could go out within the limit of the camp or else go and wash to the washroom, or to the room, but all that lasted until only 8:30 because at 8:30, as I stated before, the guard would come and put lock and chain on the door and lock us in. That, Your Honor, is what our day was like in the camp.

Q. You said you were referred to simply as "Stuecke" or pieces, weren't you addressed as a priest? Were you called Mon Père, Monsieur le curé or l'abbé or some such designation of your priestly office?

A. Sometimes certain guards would call me Mr. Pastor, but that is all. I mean I was nothing to the management of the camp, a mere nothing.

Q. And when you were called by the guard to eat did they call you in German and can you describe the manner in which you were called to eat?

A. We then never used the German word corresponding to human eating. They always used the word "fressen" which refers to animals, feeding of animals, and the first words I heard in German were, no work, no feeding, "Keine Arbeit, kein Fressen."

Q. And did you conduct religious services while you were at Dechenschule?

A. I never could.

Q. Later, when you were at Neerfeldschule, did you conduct religious services?

A. Later when the civilian clothes were given back to us, I thought that, at least to a certain extent, I would be able to do my religious duties. I heard a comrade of mine approach the camp commandant, Rath, and the answer was no. Three to four weeks later I heard he approached him a second time. The answer

was again no and then 3 or 4 days after that second approach, the camp commandant had me called to his office and repeated to me specifically the prohibition to fulfill my religious duties under the severest punishment that could exist, that is, under the capital punishment.

JUDGE WILKINS: It's a little difficult to hear you when you are looking the other way.

THE INTERPRETER: Under the severest punishment that could exist, that is, capital punishment.

* * * * * * *

MR. THAYER: Father Come, were you required to work at one of the Krupp plants or installations, just briefly tell us now?

WITNESS COME: I was never asked to do so, but I was simply brought to work there.

Q. Which plant were you taken to work at, Father Come?

A. I worked in quite a number of detachments. At first I worked in the detachment Stollenbau, tunnel construction, on the construction of shelters. Then I worked in the Martin [open hearth] Works I. After that I was a member of the detachment Neerfeld, that is the detachment putting the barbed wire around the camp and the iron bars at the windows. After that I was in the detachment ABA [Apparatebau Abteilung—apparatus manufacture department] and then I worked in the detachment taking care of the clearing up work after the bombing in the Krupp factory, clearing away of the rubble, and then I worked also in two detachments for cleaning up the offices and the quarters of the plant police.

* * * * * * *

Q. Did you witness any acts of brutality while you were at these camps by persons under Krupp control, Krupp employees?

A. Well, after all, our guards were employees of Krupp's and they would hand out beatings right and left whenever they pleased. In the evening at the roll call the camp commandant would hand out beatings to one of my comrades or the other because they didn't arrive at the roll call early enough or speedily enough, or because they were badly shaved or for other futile reasons. Among the guards there was one Willi Toppat* who really specialized in beatings, and I could quote names of comrades in the camp, both camps, who suffered brutalities.

JUDGE WILKINS: I didn't get that last name.

THE INTERPRETER: Toppat, presumably, Your Honor, T-o-p-p-a-t.

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* Toppat was called as a defense witness. Extracts from his testimony are reproduced in section VIII D 4.

MR. THAYER: Can you tell very briefly of any beatings administered by a foreman of one of the work plants, not a guard of the camp, and specifically, can you tell what happened to a comrade by the name of Thieltgen, T-h-i-e-l-t-g-e-n?

WITNESS COME: Yes, I remember Thieltgen quite well. His name was Fernand, F-e-r-n-a-n-d Thieltgen, and he was the secretary of the governor for the Belgian province of Luxembourg. Delamarre, whose real name was Ledoux,* had been medic at the Lintorf camp, and after he left, Fernand Thieltgen had been appointed medic by the camp office. However, theoretically he was still a member of the detachment RW 6, which was the detachment he had been working in. He had already assumed his functions as medic, and therefore was no longer at the factory. One afternoon, a certain foreman of the detachment RW 6 by the name of Amos, A-m-o-s, came to the camp and asked where Fernand Thieltgen was, and he then went up to the room of the medic, that is the room that was situated above the dispensary, and in this room of his he had beaten him savagely, that is, this foreman had come from the factory to the camp to beat this man up.

Q. Father Come, do you recognize in the prisoners' dock any of the defendants? Can you give the names of any of the defendants you recognize by sight or by name?

A. The third from the right.

Q. Do you know that person's name?

A. That is Mr. von Buelow.

Q. You mentioned some instances which made you feel certain that Krupp was in charge of Dechenschule and Neerfeldschule. Do you remember any specific instance indicating that the defendant von Buelow was the man in charge and the man in control somewhere up above things at those camps?

A. First of all, the day after the bombing Mr. von Buelow came to deliver a speech to us—incidentally, in excellent French—and from the way he talked to us, it became apparent that if he wasn't the man who had our fates in his hand, he still was the man who could shape our very existence down there. He promised us that we would have better housing facilities, better food. He said that they had been mistaken concerning us. He congratulated us. He said that it wasn't Germany's fault that we had these victims on account of the air raids, that the reason was the war, and that the war had been forced upon Germany by the Allies. When I was in the detachment where we had to clean up the premises of the Werkschutz, of the plant protection

* Ledoux also appeared as a prosecution witness. Extracts from his testimony are reproduced in this section.

guards [plant police], I also saw some indication that von Buelow was in direct relation with our camp, because he and Rath, the camp commandant, had in the premises of the plant protection guard communicating offices. I even entered, in my convict uniform with yellow stripes, I even entered Mr. von Buelow's office in the Werkschutz and I put on the pipes of the stove and I started the fire, although I hardly think that he remembers that today.

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EXAMINATION BY THE COURT

JUDGE ANDERSON: I'd like to ask one question that I am not clear about.

Q. Was there any opportunity at all furnished to the inmates of the camp generally to attend any kind of religious services if they desired to do so?

WITNESS COME: Never at the Dechenschule. At the Neerfeldschule it was officially promised that the inmates should be granted that privilege, but in practice their leaving camp for that purpose was always prohibited.

Q. Well, now, are you able to say that the inmates of the camp, or either of them or both, desired to attend religious services? Did you ever hear any of them express a desire to do so?

A. Certainly, Your Honor.

Q. All right, that is all.

CROSS-EXAMINATION

* * * * * * *

DR. POHLE (counsel for defendant von Buelow): You mentioned several plants, Father Come, where you were put to work; for instance, in the Martin Works I [open hearth]. How far was this plant away from Dechenschule?

WITNESS COME: It wasn't very far. You had to count on about a 20-minute walk.

Q. What did you do in Martin Works?

A. In the caves, that is on the third floor below the ground of these furnaces, we had to take out the red hot stones of the furnaces which were going out, the furnaces which just were being extinguished. It was so hot down there that the Germans would work only in their kerchieves while we were not allowed to take off anything, neither our jacket nor our prison clothes.

Q. Who prohibited the taking off of your things?

A. It was prohibited by the guard who escorted us, and by

the foreman who brought us to the work and indicated what we were to do.

Q. How long did you work at Martin Works?

A. For about 10 days.

Q. And later on you were in the Apparatebau, ABA, is that right?

A. Yes.

Q. How far was that plant from Dechenschule?

A. It was nearer to the Dechenschule than the Martin Works. If you take a bee line, then the big plant police building is about in the middle between the Martin Works I and the ABA.

Q. What did you do in the ABA, the apparatus manufacture department?

A. At the ABA I was put to light work, that is, at least, what they were in the habit of calling light work. We were put in ranks, and each of us had to transport big rounds of iron. The lightest of these rounds of iron would weigh 20 kilograms, and we were obliged to carry one of them in each hand. We would bring them from one factory hall to the other, and then also to the X-ray hall, and again to another hall, and that meant that on every way we always had at least 40 kilograms to carry. That was the light work which I was subjected to.

Q. How long did you work there in the ABA?

A. For 3 to 4 weeks I worked in the ABA. I couldn't tell you which position. As I was not specialized for either kind of work, they would just push me around from one detachment to the other.

Q. Apart from those two plants you also worked in the trench construction, in the Neerfeldschule, debris clearance, and in office cleaning work, is that right?

A. Yes, that is correct.

* * * * * * *

Q. Do you remember that after this speech which you described, one of your comrades stepped up to Mr. von Buelow with certain requests he had?

A. I am not in a position to talk about what happened after the speech because immediately after the speech, I was a member of a group which right then had been sent to start again the clearing up in the ruins of the Dechenschule, so I can't tell you anything about what happened after the speech.

Q. Do you remember whether on this or another occasion Mr. von Buelow talked repeatedly in French with your comrades so that the German guards couldn't understand what was being said?

A. No, I don't know anything about that.

Q. When you saw Mr. von Buelow in his office when you were setting up his stovepipe, did you attempt to speak to him about your requests and what worried you?

A. No.

Q. Do you remember that when you were doing this clearing work in the office of Mr. von Buelow, his secretary gave broth and coffee to the workers for whom she felt very sorry?

A. You mean for us?

Q. Yes, I mean for you.

A. No, she didn't make any coffee or consommé then.

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PARTIAL TRANSLATION OF DOCUMENT NIK-12802 PROSECUTION EXHIBIT 1014

EXTRACTS FROM THE AFFIDAVIT OF HENDRIK SCHOLTENS, 26 SEPTEMBER 1947, CONCERNING HIS IMPRISONMENT IN THE NEERFELDSCHULE CAMP

Directorate—General
Special Administration of Justice
Department Economic Coordination
Pro Justitia
Subject: Forced Labor at Krupp's Essen.

[Stamp]

Director General for the
Special Administration of Justice

AFFIDAVIT

DEPOSITION

By order of Mrs. E. A. C. Meijlink, chief of Department Economic Coordination of the Directorate—General for the Special Administration of Justice, and in the presence of Josif Marcu Jr., Special Consultant of the Military Tribunal in Nuernberg, I, the undersigned, Florentius Albertus Vink, economic coordinator at above-mentioned department, have on 26 September 1947 heard:

Hendrik Scholtens born at Sambodja (Netherlands East Indies), 12 December 1924, a student of aeronautical engineering in Delft, residing in Delft, Julianalaan 99. After we had given him the necessary explanation on the matter, he stated as follows:

"I attended the Hogere Burgerschool [High School] at The Hague. In January 1943 I was called up by the Gewestelijk

Arbeidsbureau (Provincial Labor Office) at The Hague to go and work in Germany. As I had not completed my studies yet, I got a 6-month deferment, the so-called student's 'Ausweis' [certificate]. Until January 1944 I managed to put off a definite date for being sent out. I was, however, unable to avoid being sent out, because it was at that time impossible for me to go into hiding, in the first place on account of family difficulties, and secondly because I was entirely dependent on strangers financially, as my parents were then in the Netherlands East Indies, and thirdly, because I was unable to get into contact with any person or organization that could have assisted me in hiding or in any other respect. I was therefore transported to Germany about the second half of January 1944. I landed at the Labor Office Mannheim, which put me to work at the Messerschmitt Works Inc., Mannheimer Flugzeugwerke [airplane works] in Mannheim-Neu Ostheim. I stayed here only 10 days. I escaped to go to Holland, but was caught at the border and taken to the labor penal camp in Krefeld-Oerdingen [Verdingen]. The camp belonged to the Krefelder Edelstahlwerke [steel works]. That was on 31 January 1944. The treatment in this camp was of course inhuman although it was better yet than what I was to experience later in Krupp's punishment camp. I remained there till 4 April 1944. I was suffering from double pneumonia; on this date I was transferred via the prison Anrath, transit camp Cologne-Deutz, Heidelberg prison, to Mannheim town prison. As a result of my stay in the camp and the transportation I weighed only 44 kilos, and I was in an extremely exhausted condition.

* * * * * * *

"They had taken away our coats, our ties, our belts and our watches, because the gentlemen, the guards of Krupp's, had declared that these were luxury articles. They also cut off our sleeves to above the elbow.

"The next morning we were, without having received our belongings back, taken to the punishment camp Neerfeld X.* It took us about 4 hours to walk there, because with the condition we were in, we were unable to walk fast, and many were ill and had been beaten badly; the distance was about 11 kilometers. Neerfeld X was a Krupp camp. With the exception of the camp leader who wore civilian clothes—he wore however a badge which had the word Krupp on—all the guards had the word Krupp on their caps, and some of them

* This camp is often referred to as the Neerfeldschule camp.

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had a band round their sleeve which had also the word Krupp on it. The prisoners called the camp leader von Rath.

"The camp was surrounded by two rows of barbed wire entanglements, in between were brick walls, also with barbed wire on them. The older prisoners all worked at Krupp's; they were contract breakers of Krupp's, men who had refused to work, etc. When we entered the prison camp, we were sorted out according to number, and we were then taken to the administration room. Here our civilian clothes were taken away. We stood naked in order to receive our prison clothing. Some of us had smuggled money and photographs. I had a photograph on me of my father and mother who were in the East Indies. They discovered this photograph. The camp leader took this photograph away from me and tore it up. Willy, another guard, whose real name I don't know, told me that the keeping of photographs was forbidden. Because I had infringed this prohibition, or had at least tried to infringe, he began to beat me. He hit me in the face with his closed fist and with the open hand. As a result of this treatment I had serious hemorrhages. I received prison clothing which I had to put on. The prison clothing consisted of a pair of trousers which had a yellow line painted on the side of both legs, a jacket without buttons which had a yellow circle of paint on the back, and a cap. I got no underclothing, the same as all the others. Next came haircutting. I hesitated a moment, from which the guards concluded that I did not want to have my head shaved. The result was another beating. The rubber truncheon was made ready. I had to take off my jacket and then I was pounded on my bare back till I fell down completely dazed. My torturer was again the notorious Willy. I was kicked to a room opposite the administration where my hair was shaved off. This shaving was done with a knife without any previous soaping. The result was that after this treatment we walked about with bleeding heads.

"The concentration camp was originally an old school building, somewhat damaged by bombs. It was packed with prisoners, so that there was no room for us. We were put into a bunker. The bunker had water in it some centimeters high. There were a few dry spots, because the bunker was not quite level. Besides, the bunker had some wooden cross beams running through it. A terrible fight broke out between the prisoners for the dry spots, because otherwise one had to sleep in the water. We had been given thin straw beds. Some of us who were unable to seize a dry place, slept standing up the first night. The fight took place again each night. Once I

heard one of our guards remark, when he witnessed such a fight: 'Das ist recht schoen, sie erziehen sich selber.' (That's fine, they educate themselves.) That whole day we had not yet had any food. We had already been without food a day and a half. I saw some of us search their straw beds for mice, so they said, and they advised me to do the same, as however horrible, this would be the only fresh food we would be able to get hold of. So I searched in my straw bed, and I really did find a mouse. I killed it and put it in my pocket. Something eatable was to be made out of this at work the next day over a fire. I actually did this the next day in the factory. After this first night we were called at 6 o'clock. In our prisoner clothing we had to stand at attention in the snow till 8 o'clock. Then I saw several prisoners whose ears and toes were frostbitten. Without food, without top coats, without being able to wash ourselves, we had to walk the same road back to the main administration building. In the vicinity of the main administration building we had to pass by gate 68 and thus came to a factory yard near an electric power station. We arrived at this factory yard at 12 o'clock. We had to start to work immediately. We did not get any food and had to do manual labor. The factory yard had been bombed. We had to dig an electric cable out of the ground. We were too weak however to break up the frozen soil. German prisoners and other Germans broke up the hard soil for us, after which we had to bring the soft soil to the top. The electric cables were charged. German engineers warned us which cables we were not to touch. I personally did not see any accidents happen. Working together with us were Jewish girls from Hungary. We were forbidden to speak to these girls. Once I succeeded nevertheless in getting into contact with one of these girls. She wrote me that she had been arrested in Budapest in 1943 during a razzia [raid], and that she was a Jewess.

"During the time I worked at Krupps I was also beaten on a number of occasions by civilian German workers who were dissatisfied with me. At about 5 o'clock we returned to the punishment camp. After walking 4 hours we arrived back at the punishment camp Neerfeld X.

"We got half a liter warm water with cabbage leaves. This was called soup, and about 50 grams of bread. Once a week we got 25 grams of margarine, 25 grams of jam, and 25 grams of sausage.

"I remained 6 weeks in this camp under the conditions described above. During the 6 weeks I was at Neerfeld, I did not receive any further clothing, no soap, no water to wash my-

self; during the night we could not use any toilet. We did not get any medical attention at all, although there was a doctor in the camp. He declared everyone fit for work, whether during the march to the factory his feet had got torn on account of the leather straps rubbing his bare feet, or, whether, as a result of other wounds or illnesses, for instance, the frequent colds, dysentery, and pneumonia. These people went back to work again till they dropped. Then they were brought back to the camp. When there were enough sick people they were put on a truck till the floor of the truck was covered. They disappeared from the camp, and I never saw them again."

* * * * * * *

[Signed] H. SCHOLTENS

EXTRACTS FROM THE TESTIMONY OF PROSECUTION WITNESS HENDRIK SCHOLTENS[1]

* * * * * * *

CROSS-EXAMINATION

DR. MASCHKE (assistant counsel for the defendant von Buelow): Mr. Witness, how old are you now?

WITNESS SCHOLTENS: Twenty-three years.

Q. Twenty-three years. In your affidavit (*NIK–12802, Pros. Ex. 1014*)[2] you say that you had been called up by the local labor office for labor service, is that correct?

A. Yes, that is true.

Q. Do you also speak German? You speak a little German? You just said "that is correct" in German.

A. A little bit of German I talk, but not enough to explain myself.

Q. Excuse me. What kind of labor office was that? Was that a Dutch labor office or a German labor office?

A. It was a Dutch labor office. All the higher personnel were Germans.

Q. How do you know that?

A. Well, I have heard them talking to me and talking to each other.

Q. Mr. Witness, could you quite briefly tell the Tribunal regarding the legal provisions valid in Holland at that time, and which introduced labor conscription? What kind of provisions were these?

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[1] Complete testimony is recorded in the mimeographed transcript, 10 February 1948, pp. 3616–3627.

[2] Reproduced in part immediately above.

PRESIDING JUDGE ANDERSON: Now, Counsel, I think it is going rather far to expect this witness to testify as to questions of law. Don't you think that will have to be presented in another form?

DR. MASCHKE: Yes, I will present my question in a different form, Mr. President.

Do you know that at that time there were legal provisions in Holland which entitled the authorities to call up certain groups for labor service?

WITNESS SCHOLTENS: Yes, I knew that, because that was in the newspapers.

* * * * * * *

Q. Well, who were the guards in this camp?

A. Well, it was German police, it was plant police and some people in civilian clothing with weapons, armed people, but I don't know any more.

Q. Was this camp called the special camp of the German secret police?

A. I don't know that.

Q. This camp in Krefeld-Uerdingen—I have just noted that you learned some German after all, Mr. Witness.

A. Well, I didn't say I don't know German at all.

Q. I should like to skip the stages which you have mentioned here, and I should like to come back to the moment where you established closer contact with the firm Krupp. Can you describe quite briefly, Mr. Witness, how it came about that you found yourself again in the main administration building of Krupp?

A. Well, from the police headquarters in Essen, they brought me to the Krupp main administration office, and there the German police left us and the Krupp plant police took us over.

* * * * * * *

Q. Mr. Witness, in your affidavit you say that at the moment at which you were escorted to the main administration building by the police and were received by the Krupp plant police, that the plant police people received you with a beating consisting of blows in your face and in the stomach, until the "victim of the slaughtering" was lying on the ground. Now, first of all, one question. In which language did you write this affidavit?

A. In Dutch.

Q. In Dutch. The second question, can you give me any names of the people who beat you?

A. No, of course not. They don't say their names before they beat you.

Q. Did you ever see them again at a later date?

A. Not those people from the main administration building.

Q. What was the reason for this mistreatment?

A. Well, I don't know for sure, but they had papers from the police headquarters, and they read that and said, "You are a contract breaker, so, and you were once working here," and then you got your portion.

Q. You remember that quite exactly, Mr. Witness, do you?

A. Certainly.

Q. You were then transferred to the Neerfeldschule. Who was the camp leader of Neerfeldschule?

A. Well, that is the man I mentioned in my affidavit as von Rath.

Q. What was his name—Rath? Then you also named in your affidavit a certain Willi. Could you give us the name of this Willi?

A. No, Willi is the only thing I know. I am not sure if that is his real name, because I only heard it said by the other prisoners, that his name was Willi.

Q. Did this Willi wear a uniform?

A. Yes, he did.

PRESIDING JUDGE ANDERSON: We will take the recess.

* * * * * * *

DR. MASCHKE: Witness, in your affidavit you describe a particularly unsavory incident, that is when you caught a mouse in order to eat it. I would like to discuss this incident and let it become more clear.

WITNESS SCHOLTENS: Yes, I will.

Q. Can you describe in detail how you caught the mouse?

A. Yes. We were terribly hungry in those days, because on the very small food rations in the police headquarters, and then the transport to the main administration building; and then to the Neerfeldschule. All this time we had nothing to eat. And the first day in the Neerfeldschule there was nothing to eat at all. Then we became a little bit crazy, so to speak, and were looking for anything that could be eaten. And we saw other prisoners eating, and just seeing one chewing made us more hungry for something to eat. And they said, "Well, you can eat it too." Well, there were lots of those mice in the straw beds and my friend and I, we got one, and although we didn't eat it with appetite, we did try to.

Q. You caught the mouse with your own hands?

A. Yes, of course I did.

Q. And on the following day, as you say, you cooked it in the factory?

A. Yes.

Q. Did you have the possibility of so doing?

A. Yes. Near the works we found some wood and we made a fire. Sometimes we were allowed to make a fire when it was terribly cold, and in the iron saucepan which we always carried with us when there was something to put in it we, so to say, fried it in order not to eat it raw.

Q. I'd like to ask you one more question on this subject. A mouse has a skin. Did you skin the mouse before you cooked it?

A. Of course, we only ate the meat.

Q. Did you have tools to do that?

A. Well, not tools, but pieces of glass and little iron pieces we could always find about the grounds.

Q. Witness, quite a number of witnesses have testified in this Court about the Neerfeldschule. They also testified about food conditions. You say in your affidavit that you received about 50 grams of bread per day. Do you know how much that is—that 50 grams of bread?

A. Well, of course we didn't weigh it, but I think 50 grams is one thin slice.

Q. The witnesses who have testified here so far have stated that they received between 250 and 400 grams of bread per day—at least, that is how I remember the figures mentioned. Do you want to maintain your statement that you only received one single thin slice of bread per day?

A. Well, so far as I can remember we only got one slice a day.

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EXTRACTS FROM THE TESTIMONY OF PROSECUTION WITNESS PAUL LEDOUX*

DIRECT EXAMINATION

MR. KOESSLER: Witness, will you please repeat your full name?

WITNESS LEDOUX: Paul Ledoux.

Q. Were you known under this name also in the Krupp camp?

A. No.

Q. What was your name in the Krupp camp?

A. Delamarre.

Q. What is your residence and what is your nationality, Witness?

A. I am a Belgian, from Brussels.

Q. And what is your present profession?

A. Government employee.

Q. Witness, do you remember 17 August 1944 had a certain significance in your life?

* Complete testimony is recorded in the mimeographed transcript, 4 February 1948, pp. 3137–3172.

A. Of course, that was the date I was arrested by the Germans.

Q. Will you, Witness, describe very briefly what happened to you on that day, and also on 23 August 1944?

A. On 17 August 1944, I was arrested in the railway station of Lecambon, by Belgian agents of the Gestapo. I was then transferred to the Arlon prison where I was held for 2 days, after which I was handed over to the SD for an interrogation. After the interrogation I was brought to the Werbestelle, that is, to the recruitment center, where I was informed that I was to leave for Germany. No motives for my arrest were ever given to me.

Q. When did you arrive in Germany; where did you arrive in Germany; and if it was Essen where you arrived, how long did you stay in Essen?

A. I arrived at Essen in the afternoon 23 August 1944; I arrived at the main railroad station. From there I was immediately brought to the Dechenschule camp, where I remained until 23 October 1944 the date of the bombing, after which I was transferred to the Neerfeldschule.

Q. When you say "after which," you mean, of course, after an interval of, I believe, 2 days, because I believe you stated you were in the Dechenschule camp on the 23d, and then you were 1 or 2 days out of the Dechenschule camp, and then you were transferred to the Neerfeldschule camp. Is that correct?

A. That is quite correct. We had the bombing on the 23rd, and after this bombing, during the whole day of the 24th, we were working there in getting the dead out of the collapsed buildings and collapsed shelters, and also fetching their personal belongings and gathering them, and it was only on the morning of the 25th that we were brought to Neerfeldschule.

Q. Well, you arrived at the Neerfeldschule on 25 October, will you tell the Court how long you remained there?

A. I remained at the Neerfeldschule from 25 October 1944 until 26 January 1945.

Q. Is it therefore correct to summarize that you were in the Dechenschule from 23 August 1944 to 23 October 1944, and in the Neerfeldschule from 25 October 1944 to 26 January 1945?

A. Yes, that is correct.

Q. Witness, in the further course of my examination I will limit myself to certain questions, all belonging to the general phase of medical treatment, both in the Dechenschule camp and in the Neerfeldschule camp.

A. I am at your disposal.

Q. Are you informed about these conditions, or had you been, at the time, informed about these conditions?

A. At the camp of Dechenschule I was, as were all the other inmates, a witness of the conditions—the sanitary and medical conditions—and of the absence of medical care, which the inmates would complain about. At the Neerfeldschule camp, I myself was a camp medic, and therefore I was able to take an active part in the medical care for the inmates.

Q. We will divide now, our following examination, into these two phases, first Dechenschule camp and then Neerfeldschule camp, and we will start with Dechenschule.

Well, can you, before I start with specific questions, give me, in a very few words, a general description of the medical conditions at the Dechenschule camp, as you have them in your memory?

A. First of all, the physician, who had to visit the inmates who reported sick, was supposed to come twice a week. However, he did not really come as often as had been provided for, and therefore that gave great cause for complaint from the inmates. Besides that, the dispensary was in the barracks, arranged over another room where inmates also slept, and the dust, the dirt, and even the excrements contained in the containers for human necessities would go through the floor and through the wooden planks into this other room, and therefore the inmates had great reason to complain. However, these complaints always remained without any success, they would never get any satisfaction.

As far as the medical care itself was concerned, the biggest complaint was that the physician would only treat a man if he was ready to collapse, and would wait until the last moment. For instance, that was particularly true in the case of one young man, under 20 years of age, by the name of Raymond Poncard,* who had ulcers in his intestines, and who died because the physician did not treat him in time.

Q. Witness, I have to touch a topic which is not agreeable to discuss but I believe it is necessary in connection with this case.

You spoke about these unfortunate conditions, that excrements came down from the floor above the dispensary so that this was a tremendous nuisance to the sick people. Will you elaborate on this point and give some more details on it? How were the conditions, the toilet conditions, in that room from which these excrements fell down, and why did this happen.

A. The room 2A which was above the dispensary was housing 40 inmates, 40 inmates who were locked into that room during the whole of the night and to accomplish their human needs, they had only two jelly pots and these jelly pots served as night

* Also spelled Ponsare and Cosare in original transcript.

pots for all of these 40 men—big jelly cans, but as the food contained lots of liquid, it mainly consisted of soup and as also most of the inmates from the very beginning suffered from dysentery, or at least a disease very similar to it, these two pots were absolutely inadequate for the 40 men to perform their needs and therefore, the results were what one can imagine.

Q. Were these conditions known to the camp commander or could or should they have been known to the camp commander?

A. First of all, the camp commandant had to know these conditions and did know these conditions because the inmates complained about them. Also the office of the camp commandant then ended on the same corridor as the dispensary and from that office you could see the traces of dirt on the walls of the dispensary, therefore, it was quite clear that the camp commandant knew the conditions.

Q. Coming back to the dispensary, Witness, can you tell me how many beds there were in this dispensary, beds available for sick people?

A. There were six beds, one of which was occupied by the medic himself.

Q. Were they sufficient for those people who needed to be laid up on account of their sickness?

A. The beds were never all occupied even so difficult was it to have the sick recognized as being sick.

JUDGE ANDERSON: I didn't get the last part of what you said.

WITNESS LEDOUX: It was so difficult to be recognized as sick that the beds in the dispensary were never fully occupied.

MR. KOESSLER: But, if all those people were really sick and needed to be laid up, would have been declared as sick, would these six beds have been sufficient?

A. Of course not and to give you the reason, I could even base myself on the figures permitted, that is, the sick rate allowed by the German authorities themselves, by the camp authorities. There were 400 workers in the camp, all of them in the category of western workers and for that category, the Germans allowed a maximum sick rate of 10 percent, that means that if this sick rate had really been authorized, then we would have had a minimum of 40 sick people and only five beds in the dispensary.

Q. You said before that the doctor very rarely recognized the man who was sick as being sick. Suppose this happened, however, that the man was recognized as sick, was he thereby dispensed from work?

A. Yes, in those cases the sick person would get either 1 or 2 or even 3 days of rest and in very serious cases or cases where

the physician was afraid that contamination would take place as in the case of diphtheria for instance, then the sick person would be sent to the hospital, but during the 2 months I was at Dechenschule, I know only of one case where a person was sent to the hospital and of two cases where a person was admitted into the dispensary.

Q. Now, tell me about those people who were not sent to the hospital, but were allowed to stay away from work because they were recognized as sick. Were they dispensed from the roll call?

A. Those who were not admitted to the dispensary, yes.

Q. And when were these roll calls—at what time of day?

A. The roll call which these sick persons had to attend was the morning roll call which took place at about 5:15 a.m.

Q. Is it then true or is it not true that it happened that even people who had fever but were not hospitalized, so to say, but only recognized as sick but had to stay in the camp, were forced to appear at this roll call, to leave their beds and to appear at the roll call?

A. Yes.

Q. Witness, can you give me a bit more detail about the story of that young man, Poncard, who, according to your statement before, died because he was not given the proper treatment in time?

A. Raymond Poncard was sick of an inflammation of the intestine walls and he had been admitted into the dispensary a few days only before the famous bombing of 23 October. Right after the bombing, my comrades and I took him to the hospital on the stretcher. We took him to the hospital on a stretcher ourselves and we don't know exactly what day he died, but he died a few days afterwards because he hadn't been treated in time.

Q. What did, if you are informed about it, the doctor in the hospital to which Poncard was brought tell to your comrades concerning him?

A. I don't have any knowledge about the opinion given by the physician himself. Information was given to us by the nuns who acted as nurses in the hospital.

Q. And what was this information which the nurses gave?

A. That he had arrived too late at the hospital.

Q. They were German nurses?

A. Yes, certainly.

* * * * * * *

Q. Now, Witness, before concluding this first phase concerning the Dechenschule, I want to ask you only one question. You gave us in detail the conditions of the dispensary. How do you happen to know about these conditions?

A. That is very simple. First of all from the very day I arrived at Dechenschule I was living in room 2A, that is the room I have already described which was over the dispensary. Also, for 1 day, once, I had been admitted to the dispensary myself so, if you want to express it that way, I have been living over and under it.

* * * * * * *

Q. What about the conditions at the Neerfeldschule? You stated before that at the Neerfeldschule you, yourself, were in a kind of medical employment, I don't know whether you were a nurse or another kind of medical assistant. Will you please describe that condition, I mean your personal function at Neerfeldschule camp?

A. At the occasion of the bombing, I had, as I have described, been able to administer certain medical aid to my comrades who had been wounded there and as a result of that I was called to the camp commandant after the bombing of 23 October, and he asked me whether I was what the Germans called "Sanitaeter" which means a medic and I answered him simply that I held the diploma for first aid of the Belgian Red Cross whereupon he told me that I was being appointed assistant camp medic and in that capacity I remained at the camp of Dechenschule during the whole remainder of the month of November, functioning in reality as camp medic without having officially the title. However, that situation was tolerated by the camp authorities because I was no longer sent out to work in any detachment or commando. Then at the beginning of December 1944 I was officially appointed camp medic for the Neerfeldschule camp.

Q. And stayed so until the end, until you left the camp?

A. Yes.

Q. Well, tell me briefly what your real profession was before you came to the Dechenschule camp? I'd like to interrupt the witness; I am more interested in a brief description of profession, as he previously covered that in the beginning of his statement.

THE INTERPRETER: Will I have to translate this?

JUDGE WILKINS, Presiding: You go right ahead and translate it.

WITNESS LEDOUX: Until the war, I had my own shop as a radio technician. At the beginning of the war, that is when the Germans occupied the country, I had to give up that profession because it was prohibited by the Germans, the Germans being afraid that radio technicians would use their professional skill to manufacture machinery or radio transmitters which might become dangerous to them. I then enrolled in a state agency which was the Brussels air defense, and I remained in that state

agency until April 1943 when I had to leave my place of residence because of my activities in the resistance movement.

MR. KOESSLER: So you were a radio technician by profession. Did you ever, except for that short training in first aid which you mentioned and which you took at the Red Cross, did you ever before you came to the Dechenschule camp have any serious medical training or experience?

A. No, of course not.

Q. Good. Now, can you describe to me very briefly whether those conditions as to sanitation which you have described concerning the Dechenschule camp continued in the Neerfeldschule camp; and if so, until when they continued and when a change took place. We will speak about the change later, of course.

A. Not only did the conditions as far as medical aid was concerned remain as bad in the Neerfeldschule as they had been in the Dechenschule, but during the first period of our stay in the Neerfeldschule they even deteriorated, deteriorated to the point where the physician wouldn't come at all to the camp; and during that sad period where we lacked completely all professional medical aid and all medical supplies, we had the misfortune of losing another one of our comrades by the name of Jan Uebrix, a Dutch citizen who had lived in Belgium and who died of diphtheria. A change in the medical conditions came about on or about 15 November, certainly after the 15th because if I remember rightly, 15 November was the date when the physician from the Dechenschule came to the Neerfeldschule for the last time.

JUDGE ANDERSON: Came what?

WITNESS LEDOUX: When the physician who had come to the Dechenschule camp came to the Neerfeldschule for the last time.

MR. KOESSLER: Before we turn to this change, I'd like to ask one question. Did not something particular happen either at this last visit of the Dechenschule physician at Neerfeldschule or at the next to the last visit, I don't know which it was?

A. There was something special that occurred during both of the last visits; that is, at the last visit but one, the physician came in order to take notice of the death of this Jan Uebrix who I just talked about, and the last visit he came on an intervention of Mr. von Buelow because of the Prince of Merraud who was very ill and also because of my three other comrades, one of whom was Father Come.

Q. Well, according to your present explanation, I mean the next to the last visit. What particularly happened at that time when he came to see the body of this Mr. Uebrix, if I understand the name correctly?

A. The physician was drunk, and he proceeded to make an oscillation of the body.

JUDGE ANDERSON: To what?

WITNESS LEDOUX: That is, he listened in on the heart beat of the body.

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MR. KOESSLER: Your Honors, I have no further questions on direct examination; however, with your permission, I want to say that the witness expressed the desire to be given the opportunity of making a short remark of his own which, according to him, fits within the limited scope of this examination.

JUDGE WILKINS, Presiding: Yes, he may. He may make any statement he desires.

WITNESS LEDOUX: When I started my testimony before this Tribunal, I swore to speak the truth, all the truth and nothing but the truth.

JUDGE WILKINS, Presiding: Just one minute, I can't hear you here.

THE INTERPRETER: Can you hear me, Your Honor?

JUDGE WILKINS, Presiding: Yes.

WITNESS LEDOUX: When I started to testify before this Tribunal, I swore to speak the truth, all the truth, nothing but the truth, to which I have absolutely limited myself, giving the Tribunal facts and facts only, and beyond that, only facts that are facts of which I had personal knowledge, and where I could supply the Tribunal with the necessary details. However, I am very much afraid that this kind of sober testimony does not render, and does not show the Tribunal, the atmosphere of terror that prevailed in both camps, both in the Dechenschule and the Neerfeldschule. The Tribunal has to remember and has to hold before their eyes that these men in both camps could not make a gesture and could not make a move constantly without having to fear these beatings, these beatings that they were submitted to without any reason being given. I am afraid that the facts I have given the Tribunal cannot and will not paint truthfully the whole atmosphere of that camp, this atmosphere of terror and that is why I made it a point to make this additional statement.

JUDGE WILKINS, Presiding: Yes, thank you. Any cross-examination?

CROSS-EXAMINATION

DR. POHLE (counsel for the defendant von Buelow): Witness in your capacity as a member of the Belgian resistance movement, did you come from Brussels to Libramont?

WITNESS LEDOUX: No, my resistance activity was in the Belgian province of Luxembourg.

Q. Then you were in Libramont when your work in the resistance movement had already started?

A. Yes, of course.

Q. Why did you call yourself Delamarre?

A. Well, I really had no earthly reason to keep my real name, because I was wanted by the police.

Q. Were you wanted by the police in Libramont?

A. I was wanted under my real name in the Belgian province of Brabant, and that is why I had to leave that province and go into another province with an assumed name.

Q. What was your activity in the resistance movement?

A. I don't see how this question can be relevant to this trial but if I am urged to give you this, I am, of course quite willing to do so.

JUDGE WILKINS, Presiding: Yes, go right ahead.

WITNESS LEDOUX: Our main activity, first of all, was to help people, that is, the main activity of the resistance movement I was a member of was to help people who refused to perform their compulsory labor service in Germany. We could provide them with funds, with false papers, with lodging facilities, and wherever necessary, also with food. Another branch of our activity was the spreading out of the—another branch of our activity was the spreading of the clandestine press, the secret newspapers, and also the preparing and perpetrating of acts of sabotage against the German armed forces.

DR. POHLE: Were sabotage acts actually committed?

A. Personally, I did not commit any acts of sabotage, my mission was only to direct these acts.

Q. At your instructions, did others commit acts of sabotage?

A. Yes.

Q. What did they do?

A. For instance, on 12 August 1944 the destruction of all the telephone lines in the province Luxembourg.

Q. That was at a time when the German armed forces were still in France, wasn't it?

A. Yes.

Q. What was your age group?

A. 1905.

Q. You spoke of a physician who was in the Dechenschule. Do you know his name?

A. Unfortunately, I don't know the name. It is very unfortunate, because I consider that physician a criminal.

Q. Is it possible that his name was Schulte-Brauer?

A. Really, I couldn't give you any indication with respect to his name.

Q. Did he wear a uniform?

A. Yes.

Q. Was it an SS uniform?

A. No. I would rather think that he was an officer of the air force, German Air Force.

Q. Witness, you described the terrible story of the excrements, and you said that you complained. To whom did you complain that there were no drugs available?

A. We complained to the camp commandant.

Q. Was it Rath?

A. Yes, Rath. But we complained not only to Rath, but also to Boden, and all the personnel of the camp.

Q. What did the persons reply in answer to your complaints?

A. I don't recall what they answered, but I do recall that nothing was done about it.

Q. Did you personally complain?

A. No, not I personally, because that had nothing to do with my functions. The medic went to complain and also those who were in charge of the individual rooms.

Q. Were you present at these discussions?

A. No, I wasn't there during those conversations, but I did attend the morning roll calls when the medic would complain to the guard that, for instance, urine had again come down from the room above, into the dispensary.

Q. Could it come through the ceiling?

A. Yes, you could even see the sick people in their rooms through the ceiling.

Q. Did the ceiling have holes or cracks in it?

A. Well, the wooden planks were not closely joined together. There was space between the planks comprising the ceiling, and you could see the sick people through those spaces.

Q. You said that a sickness ratio of 10 percent of the total number of people was permitted there. How do you know that this was the official ratio permitted?

A. Dr. Weber himself told me so.

Q. Did you also talk about it with the physician at the Dechenschule?

A. No, I never talked with him.

Q. Did Dr. Weber show you this on paper?

A. No.

Q. Did he tell you who set this ratio?

A. No, he only told me that one day as an indication—when I

complained to him how difficult it was to have the sick recognized as unfit for work when we came to him.

Q. You related to us the death of the young Poncard. Do you know into what hospital he was taken?

A. Yes, to the Kupferdreh hospital.

Q. Was he brought there by you or by fellow workers?

A. I didn't take part in this transport.

Q. You told us that you talked with the nuns about this case. Where did the sisters or nurses meet?

MR. KOESSLER: I object to this question. It is not a correct quotation of what the witness said. The witness didn't say he had a conversation with these nurses. He said only that his comrades had the conversation.

JUDGE WILKINS, Presiding: I think your point is right, but the witness can answer accordingly.

WITNESS LEDOUX: I was just about to correct counsel in his question. I never said that this German nun who acted as a nurse told me anything. What I said is that the person who gave the information was a German nun who acted as a nurse. I never said that she gave that information to me. The situation was that some time after the bombing one of my fellow workers went to the Kupferdreh Hospital to visit one of my comrades who was hospitalized there. Also, at that time we were very much afraid and very worried about the fate of those comrades of ours who after the bombing had been taken into the hospital in the region of Essen, and we were chiefly worried about the fate of Raymond Poncard who had been taken to the hospital in a very serious condition; and those comrades of ours who went to the hospital to see the sick inmate came back and told us that one of the German nurses, one of the nuns, had told him that Raymond Poncard had died and that he had died because he had been brought to the hospital too late.

* * * * * * *

DR. POHLE: Witness, after 23 October Mr. von Buelow made a speech at the Dechenschule. Why did you not tell him then that you needed medical care for the victims?

WITNESS LEDOUX: First of all, during that period when Mr. von Buelow came to make a speech at the Dechenschule I had no capacity warranting me to ask for anything; and secondly, no inmate could have approached Mr. von Buelow because we were just beings who were being ordered around. We had nothing to ask.

Q. Do you not remember that one of your fellow workers did ask for something, and he approached Mr. von Buelow with a request?

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A. Yes, that is quite correct. Doubtlessly you are referring now to Mr. Decoune who stepped forward and reported that they had stolen food from his comrades and who, for making that report, was beaten up afterwards.

Q. Who beat him?

A. Willi Toppat.

Q. When did that happen?

A. I couldn't give you the exact date, but it happened in the guard room in the camp at Neerfeld in the manner described by me a little while ago. It was in January 1945.

Q. But that speech was held on 24 October, wasn't it?

A. I don't see the relation between the speech and this report made.

Q. Witness, I asked you whether someone did not approach Mr. von Buelow, and express his desire, and you referred to Mr. Decoune, that he expressed his desires but was beaten up afterwards.

A. Oh, I see what you mean. At the time of the speech nobody stepped forward and asked for anything.

Q. Do you know that for sure?

A. I think that I may assert it because I know very well the place where von Buelow made the speech and I didn't see anybody approach him.

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3. AFFIDAVITS BY DEFENDANTS KUPKE AND VON BUELOW

PARTIAL TRANSLATION OF DOCUMENT NIK–10342 PROSECUTION EXHIBIT 1251

EXTRACTS FROM AN AFFIDAVIT BY DEFENDANT KUPKE, 7 JULY 1947, CONCERNING KRUPP'S RELATIONS TO THE GESTAPO AND THE DECHENSCHULE CAMP

I, Hans Kupke, Nuernberg, having been warned that I render myself liable to punishment if I make a false statement, herewith declare the following under oath, voluntarily and without any duress:

* * * * * * *

3. I give the following information on what I can recall concerning the punitive camp Dechenschule:

With respect to the overcrowding of a punitive camp of the

community of Essen, the Gestapo in Essen had alleged difficulties regarding the further reception of prisoners. They requested the Krupp firm, at a date which I cannot remember any more (perhaps at the end of 1943 or the beginning of 1944) to establish another punitive camp which should be managed by the Krupp firm itself, although the placing of foreign workers in this camp and their supervision had to be under the authority of the Gestapo. The negotiations pertaining to this matter were conducted between the Gestapo and Mr. von Buelow. In the beginning the firm opposed this request; however the final result was the establishment of the punitive camp Dechenschule. I myself participated in one of the negotiations with the Gestapo which preceded the establishment of the camp, in which it was proposed by Krupp that this punitive camp should be supervised by the main camp administration. But in fact, owing to a request by the Gestapo, not I (main camp administration), but the Krupp Werkschutz [plant police] was entrusted with the supervision of the camp Dechenschule. I myself had only to provide the accommodation and food in this camp. As already mentioned, the Werkschutz itself was commissioned with the supervision, which was carried out through Mr. Hassel. Mr. Hassel himself also lived in the punitive camp Dechenschule. Hassel was a subordinate of Mr. Wilshaus. The latter was subordinated to Mr. von Buelow.

To my knowledge, the Gestapo sent to the punitive camp Dechenschule eastern workers as well as certain other foreigners, especially Belgians. The Belgians had nothing to do with the Krupp firm until then.

In this discussion with the Gestapo, in which I participated, it was pointed out that the inmates of the punitive camp Dechenschule which was to be established should work for the Krupp firm. At that time, indeed, it was still not mentioned that other than foreign workers employed in Essen would be taken to the punitive camp Dechenschule. I do not know, whether inmates of the punitive camp Dechenschule really worked for Krupp.

When I mentioned previously that the Werkschutz (Mr. Hassel) was commissioned with the supervision of the punitive camp Dechenschule, I did not mean by the expression "supervision" [Betreuung] the power to give sentences to camp inmates. This authority was reserved for the Gestapo.

I have carefully read each of the four pages of this affidavit, have made the necessary corrections in my own handwriting and initialed them, and herewith declare under oath that I have told the pure truth in this affidavit to the best of my knowledge and belief.

[Signed] HANS KUPKE

PARTIAL TRANSLATION OF NIK-11233
PROSECUTION EXHIBIT 1259

EXTRACTS FROM AN AFFIDAVIT BY DEFENDANT VON BUELOW, 7 JULY 1947, CONCERNING KRUPP'S RELATIONS TO THE GESTAPO AND THE DECHENSCHULE CAMP*

I, Fritz von Buelow, Nuernberg, after having been warned that I am liable to punishment for making a false statement, state herewith under oath, of my own free will and without coercion, the following:

* * * * * * *

3. Concerning the so-called Dechenschule punitive camp in Essen, I state as follows:

Frequently we had occasion to denounce foreign workers, especially Russians, to the Gestapo, for criminal offenses, particularly thefts, also because of absenteeism. These workers were transferred in many cases by the Gestapo to a punitive camp and they were never sent back to us for work. One day we were informed by the Gestapo (Kriminalrat Nohles) that the prisons and penal camps selected for this purpose were so overcrowded that they could no longer accommodate the workers thus denounced, and that we should set up a separate penal camp in which the Gestapo could imprison the workers who were denounced by us, and also others due for punishment.

After the necessary negotiations between Kriminalrat Nohles, and myself, the separate penal camp was built at the end of 1943 or at the beginning of 1944. This penal camp was not identical with a similar camp built by the town council of Essen or with a possibly already existing penal camp. However, Krupp workers were occasionally transferred to the penal camp of the Essen town council by the Gestapo. Our penal camp Dechenschule at first was under the management of a Krupp man by the name of Fuehrer, whose successor was Mr. Rath. When this camp was already established, the internment was not effected by us but by the Gestapo on the basis of our reports.

The actual development differed from the original plan. According to my knowledge, hardly any of the foreign workers reported by us to the Gestapo, especially no eastern workers, were transferred to the Dechenschule. The Gestapo incarcerated there the so-called French and Belgian *refractaires* and perhaps also, by way of punishment, criminals. The above-mentioned *refractaires* were men who had been sentenced by German mili-

* Another affidavit by defendant von Buelow (NIK-12613, Pros. Ex. 865), dealing principally with Krupp's plant police, is reproduced in section VIII C 3.

tary tribunals in France and Belgium for alleged refusal to work, who were transferred to the Gestapo in Germany to serve their sentences. During their internment in the Dechenschule, they were used as workers in Krupp works. They were escorted to and from work by members of the Krupp plant police.

A few months passed by before the Dechenschule penal camp was actually established, as I did not like the whole idea right from the start and tried to postpone it as long as possible.

As far as I remember I did not talk to any other member of the Direktorium except to Mr. Ihn about the building of the above-mentioned penal camp. The latter put the Dechenschule at my disposal for this purpose, and was in any case satisfied with the whole program.

With reference to the labor allocation of the above-mentioned inmates of the Dechenschule penal camp, I had to get in touch with the plants concerned. As far as I remember, some of the camp inmates worked in the smelting plant in Borbeck (chief, Mr. Ahrens) others with the building establishments (chief, Mr. Suhlry) and others with the drop forge (whose chief I do not recollect any more).

I only found out by degrees, and never exactly, that these people were *refractaires* and on what their sentences were based.

Next in rank below me in the administration of the Dechenschule penal camp was Mr. Wilshaus, who died in September 1945. Whoever was camp leader at the time (first Mr. Fuehrer, later Rath) was subordinate to him. The main camp administration of Mr. Kupke only dealt with the punitive camp of Dechenschule inasmuch as the latter requisitioned the necessary food and equipment from the main camp administration. By the end of September 1944, that is when the Dechenschule had been destroyed by bombing, the punitive camp there was transferred to the Neerfeldschule (in Oberhausen near Essen) and almost completely lost its character as a penal camp, inasmuch as the treatment of the inmates became much more lenient. Already before then, when I discovered that the camp inmates of the Dechenschule were criminals only to a small extent, I gave instructions for a more lenient treatment.

As far as the administration of the punitive camp referred to above was concerned, I had a double responsibility. On the one hand, I had to follow the instructions of the Gestapo, and on the other hand I had to observe the Krupp regulations and the like.

The above-mentioned points 1–3, I made in my examination by Mr. Maximilian Koessler (Attorney, Trial Team III), on 2 July 1947 at Nuernberg.

[Signed] FRIEDRICH VON BUELOW

TRANSLATION OF VON BUELOW DOCUMENT 542 DEFENSE EXHIBIT 1362

AFFIDAVIT OF PETER NOHLES,* GESTAPO CHIEF AT ESSEN, 29 APRIL 1948, CONCERNING THE ESTABLISHMENT AND ADMINISTRATION OF CAMP DECHENSCHULE

I, Kriminalrat Peter Nohles, born on 17 July 1897 in Duesseldorf, residing in Essen, Flemmingweg 5, at present Justice Prison Nuernberg, am aware that I render myself liable to punishment by giving a false affidavit. I hereby depose that my following statement is true and was made to be submitted as evidence to the American Military Tribunal in Nuernberg, or to other Allied or German courts or authorities.

I am able to supply the following details about events leading up to the establishment of the special camp Dechenschule:

The Duesseldorf Stapo headquarters maintained a labor discipline camp in Hunswinkel near Luedenscheid. I was never there, but I remember that the Stapo offices and regional offices (not the branch offices) had received instructions from the Reich Security Main Office to establish such camps. The regular police provided the guards. The Duesseldorf Regional Office constantly sent shirkers, contract breakers, etc., from its entire area to this camp, and these included Germans as well as foreigners of every nationality. If a German or western worker was to be sent there, the Reich Labor Trustee, or his deputy at the labor office, had to file an application, but in the case of eastern workers the Duesseldorf Regional Office itself would decide. Applications could only be submitted if corrective action at the factory (warnings, money fines, and finally threat of report to the deputy trustee at the labor office or to the Stepo) had first been taken and had proved ineffective.

Upon receipt of such applications from the labor office or the factories, the correctness of each case was investigated through examination of the person concerned. If it was revealed that he had meanwhile resumed work, or if he could justify himself by giving good reasons (e.g., illness, urgent family affairs), he was not sent to a labor discipline camp, but merely received a lecture or reprimand, even although this frequently met with the disapproval of the factories or labor office. Besides the firm Krupp, there were other factories employing eastern workers who occasionally filed such applications.

* Extracts from the testimony of Nohles are reproduced immediately following this affidavit.

For a first offense, 4 to 6 weeks was the term served in the labor discipline camp, and 6 to 8 weeks in the case of recurring default. Afterwards, the men were either returned to their factories, or, if these declined to reemploy them, they were handed over to the labor office for reassignment. The purpose of the labor discipline camp was solely to accustom shirkers and idlers (under supervision) to proper work, and here too maltreatment was of course forbidden. If repeated service in a labor discipline camp proved futile, and the person concerned still refused to work in regular employment, the Duesseldorf Regional Office could, with the permission of the Reich Security Main Office Berlin, order transfer to a concentration camp, or the deputy at the labor office could apply to the public prosecutor to institute criminal proceedings for breach of contract. In such cases the courts imposed prison sentences 3–12 months.

When, through the intensified air attacks, the transport situation became worse and worse, and the difficulties of transporting the shirkers into the Hunswinkel labor discipline camp increased, the Duesseldorf Regional Office ordered all larger factories employing foreigners to establish special camps, as sort of police detention camps for the better supervision and control of idlers.

Here the idlers were kept under guard and also had to work under supervision (group employment). Regulations pertaining to housing and guards were issued by the Duesseldorf State Police main office; these applied also to transfers to the camp, and if I remember correctly, the regulations were the same as for a labor discipline camp. The order for the Duesseldorf Regional Office district was, that guards had to be provided by the works police. Here, too, maltreatment was of course forbidden.

When the Duesseldorf State Police Regional Office ordered the principal firms of its district to establish special camps in order to simplify labor discipline camp procedure, Duesseldorf instructed me to inform Mr. von Buelow, the counterintelligence agent, that Messrs. Krupp too must establish such a camp. This was an unquestionable order and it was by no means up to the firms to decide whether or not to comply with it. The orders I received, it was repeatedly pointed out, counted as military commands, and we fell under the military jurisdiction administered by SS and Police courts.

Mr. von Buelow showed no inclination to establish such a camp when I notified him, according to my instructions, of the pertinent order of the Duesseldorf Regional Office. He expressed doubt and declared that this would be incompatible with the prestige of Krupp, and that there was no material for the construction of a camp, too much having been lost in air raids.

When I pointed out that the Duesseldorf Regional Office would not accept these arguments, Mr. von Buelow promised to take the matter up with the firm's executives. Both Mr. von Buelow and the directors of Krupp quite obviously put up a fight against the establishment of the special camp, and actually managed to postpone a final decision. I had to report on my discussion with Mr. von Buelow to the Duesseldorf Regional Office. Mr. von Buelow's objections were dismissed, and again the immediate establishment of the special camp was demanded.

Yet the firm of Krupp put the matter off again, declaring that they still had no material. Thus they won a temporary delay, but Duesseldorf persisted. Some time later when I reported in reply to a new inquiry from Duesseldorf that Messrs. Krupp had not yet started to build the camp, I was instructed to tell Mr. von Buelow the following: All large firms in the Duesseldorf Regional Office district having complied with the request to establish special camps, it was now presumed that Messrs. Krupp refuse compliance on purpose, especially as they were the only large firm which had failed to date to obey the order. Should Krupp persist in this attitude, "State Police action" would be taken against the responsible persons. Only then did the erection of the special camp Dechenschule materialize. Its completion, however, was delayed for a considerable time, and only months after others had finished theirs, did the firm of Krupp, after further urging, finally complete its special camp.

I have carefully read the two pages of my affidavit and hereby affix to it my personal signature:

[Signed] NOHLES

Nuernberg, 29 April 1948

EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS PETER NOHLES BEFORE COMMISSION II[1]

CROSS-EXAMINATION

* * * * * * *

MISS GOETZ: Wasn't the Dechenschule camp[2] a camp for the punishment of slackers among domestic and indigenous workers?

WITNESS NOHLES: No, it was primarily intended for eastern workers.

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[1] Complete testimony is recorded in the mimeographed transcript 22 and 24 May 1948, pp. 9156–9210, 9301–9316. After Nohles had given his testimony and while the Krupp trial was continuing, he committed suicide in Nuernberg prison.

[2] Nohles' affidavit concerning the Dechenschule camp (von Buelow 542, Def. Ex. 1362) is reproduced immediately above.

Q. For what kind of people among eastern workers?

A. For loafers and slackers—those who loafed about, who didn't want to work, were picked up by the police. And they had to be housed there until it was ascertained where they had worked last.

* * * * * * *

Q. Now, you state in your affidavit that after the order was issued Krupp refused to cooperate with it. As a matter of fact, several months went by and you had to go to the Duesseldorf authorities.

A. I didn't go to the Duesseldorf authorities, they always asked how the camp was getting along and when it would be finished.

Q. Well, do you recall when the Duesseldorf authorities asked you?

A. Certainly that happened very frequently. They always urged us about the completion of that camp.

Q. How long would you say it was from the time Krupp received the order to start Dechenschule until they actually started building it?

A. Many months, I am sure.

Q. At least 4 months?

A. I assume so; quite probably. It may have been even more than that.

Q. Well, your testimony is that they received the order to start it in January 1944. They didn't actually start it until April or May 1944 is that it?

A. Well, I really can't fix the month. I don't know whether it was January or February. My memory has suffered considerably. But I am sure that the camp was completed only in August or September. I think I can remember that with certainty.

Q. How long did it take to finish the camp once it was started. It required substantial building, didn't it,—barbed wire had to be put around the wall and iron bars over the windows, and so on. Wasn't that required?

A. Well, I said it took some time. Again and again I was urged by Duesseldorf that Krupp would see to it that that camp was completed. How long the actual construction lasted I can't say, unfortunately, but at any rate it must have been August or September, as far as I remember, before it was completed.

Q. Was the camp in operation before that?

A. What do you mean "in operation?" I can't quite get the import of your question.

Q. Is your testimony that it was August or September before the first inmates were brought to Dechenschule?

A. You asked me whether the camp was in operation. I don't know what this word "operation" means. What do you mean by that?

Q. I will change the question; forget the previous question. Were the first inmates brought to Dechenschule, to your recollection in August, or September 1944?

A. August or September—that is what I said.

Q. I just wanted to get it clear on the record. Now, when these complaints were made to you that Dechenschule was slow in materializing did you go to Dechenschule yourself to see how operations were progressing?

A. As far as I remember, I went there once or twice. Duesseldorf asked me to find out about the state of the construction work and report on it. I was urged by Duesseldorf in that respect. Again and again I told Mr. von Buelow that Duesseldorf was urging me on.

Q. Do you remember when you visited Dechenschule? What month it was?

A. Unfortunately I can't tell you.

Q. Do you remember whether it was in the spring of 1944?

A. I can't really remember the actual date. I only know that I was there once or twice.

Q. Now, you state that the other firms completed their camps very quickly. Do you mean they completed their camps by March or April of 1944?

Is that what you mean to say?

A. I didn't say "quickly." I said that they were completed sooner than the Krupp camp.

Q. Do you remember when they were completed?

A. No, because they were not in Essen. I was responsible only for Essen, and Essen was a branch office. That is to say, it was a subsidiary office of the Gestapo Regional Office for Duesseldorf. Only the chief of the head office at Duesseldorf pointed out to me repeatedly that the other firms Rheinmetall or whatever they were called, had already completed their camps.

Q. Mr. Witness, I will read to you from your affidavit: "I was instructed to tell Mr. von Buelow the following: All large firms in the Duesseldorf Regional Office district complied with the request to establish special camps. It was now presumed that Messrs. Krupp refused compliance on purpose."

A. That was my impression, that Krupp actually intentionally refused to comply with that order.

Q. Now, when were you told that all the other firms in the Duesseldorf Regional Office area had completed their camps?

A. Again I can't remember the exact date but it was cer-

tainly in the course of 1944. Whether it was spring or summer, unfortunately I don't know.

Q. Mr. Witness, in your direct examination there has been reference to the fact that you suffer from a concussion. Do you have difficulty remembering facts?

A. If I remain quiet and if I am able to think, my memory is quite good. I must never be excited. At the moment I am not excited and you will perhaps understand that it is very difficult to remember all these things now, especially since 4 years have elapsed. It is extremely difficult to remember a specific month of 1944.

Q. Now, you state in your affidavit that Krupp erected this camp upon the orders of the Gestapo and over its objections. Was Krupp then in a position to set any conditions under which you would erect the camp?

A. No, Krupp actually didn't. It only seemed to me that Krupp was shelving this matter, and it was thereby opposing the construction of the camp.

Q. Did Krupp tell you that it would erect the camp if the Gestapo agreed to one thing or another? Did it bargain with you, in other words?

A. No, there was no bargaining. By order of the Regional Office Duesseldorf I was to tell Mr. von Buelow that Krupp had to construct the camp.

Q. Mr. Witness, you stated that corporal punishment by the plant police for the foreign workers at Krupp was strictly forbidden by the Gestapo except for emergency occasions. Would you please describe the kind of occasion on which corporal punishment was permitted?

A. These cases were described in the Himmler decree. It was stated that if there was acute resistance—in other words, if a member of the plant police was attacked or if he considered himself threatened; that is what I consider by acute resistance.

Q. You mean a member of the Werkschutz was entitled to use corporal punishment only in self-defense?

A. Yes.

* * * * * * *

Q. Now, you just stated that if it was brought to your attention that any members of the plant police were disobeying the regulations and were beating the foreign workers in the absence of any threat to themselves that they would have been subject to police action. Would that have been the case regardless of who was involved?

A. Yes.

Q. Would you have permitted your personal friendship to interfere with your discharge of your duties?

A. No.

Q. If anyone had come to you and told you that Hassel was beating the foreign workers at Krupp, would you have seen to it that action was taken?

A. Yes, I would have done that even in that case, but these are hypothetical questions, are they not? Nothing like that was ever reported to me. If I had learned of these matters, I certainly would have seen to it that they were stopped.

Q. Now, you testified that von Buelow told you that he did not like Hassel and that he was going to prevent him if he could from becoming chief of the plant police. Did von Buelow discuss with you his reasons for opposing or disapproving of Hassel?

A. No, Mr. von Buelow did not do that. Mr. von Buelow obviously didn't like Hassel's entire attitude. Hassel was a man who at any rate couldn't get along with Mr. von Buelow. Their differences were far too extensive. You must understand this. Mr. Hassel was very curt, very rough in his entire attitude, in his entire dealing with other human beings. He never used many words. He was not at all complicated. He spoke his mind. He expressed himself quite freely and told everybody what he thought of him.

Q. Well, this is, however, simply gossip. Are these the reasons von Buelow gave you for wishing to have Hassel removed from the firm? Are these the things he told you to tell Hassel—that he was a rude man?

A. No. He didn't say that but he didn't like him and he actually didn't fit into the Krupp firm. That is what he said to me. I only remember that quite vaguely. I only remember that von Buelow said that he couldn't get on with Mr. Hassel and if he had any say in the matter he would never become the plant police chief in the Krupp firm.

Q. Did von Buelow give you any reasons for disliking Hassel?

A. If Mr. von Buelow did give me any reasons, I don't remember them any more. I think the reasons can be found in their personal differences. I already said Mr. Hassel, in comparison to Mr. von Buelow, was a small employee and it may be that Mr. Hassel didn't behave in the proper disciplinary manner toward Mr. von Buelow.

* * * * * * *

Q. Now who was in charge of the camp Dechenschule?

A. I really could not tell you. The first chief [leader] of this camp was, as far as I remember, it could have been Mr. Fuehrer.

Q. I don't mean the camp leader. I mean was the plant police in charge of camp Dechenschule?

A. Basically the plant police was to take over the guarding, and was going to put the personnel at the disposal of the Dechenschule.

Q. Now what was von Buelow's relationship to the plant police?

A. The plant police had been put at the disposal of von Buelow, that is, for carrying out of military counterintelligence tasks he was entitled to use the plant police, and also for police assignments of any kind.

Q. Are you of the opinion that von Buelow had nothing to do with Dechenschule?

A. No, von Buelow had nothing to do with Dechenschule. When the camp was to be installed, I informed him that the State Police Regional Office in Duesseldorf had asked Krupp to establish a camp of this nature.

Q. You spoke to von Buelow about establishing the camp. He spoke to you about the inmates in the camp. He recommended these inmates be released. And you still want to say that he had nothing to do with the camps?

A. Buelow was not a member, nor was he the chief of the plant police. As far as counterintelligence measures went, and how far they were to be observed, and in that capacity he might have taken special interest in the camp.

Q. Do you know, or don't you know whether he took a special interest in the camp?

A. If he took a special personal interest in this camp, then I would say he did so for his own personal reasons—

Q. The question, Mr. Witness, if I may interrupt you, is, do you know whether or not he took a special interest in Dechenschule?

A. The answer is in the affirmative for the reason that, as I have already said, he took the part of and supported the Belgians after the air attack and suggested many of them be released at an early date, and to improve their general condition.

Q. Did he take any interest prior to the air raid in October, to your knowledge?

A. As I had already said, the firm of Krupp first of all refused to have anything to do with the establishment of this camp; that would mean that all of the leading gentlemen of Krupp, had some kind of interest in this camp, but however, as to how far the special personal interest of von Buelow went—that I am unable to say.

Q. Whom do you mean by the "leading gentlemen"?

A. By that I mean the directorate, the management of which von Buelow occasionally talked.

Q. Then to your knowledge the directorate was interested in Dechenschule and concerned about it, and knew about it?

A. As far as I could judge the situation, it interested itself only as far as it wanted the camp not to be established.

* * * * * * *

Q. Now you say that the Gestapo at Duesseldorf was responsible for sending workers to labor education camps, and to concentration camps; do you know how often they followed the recommendation of Krupp as to what should be done with these workers?

A. I could not tell you any details about that at all.

Q. What was the purpose of Krupp making such recommendations?

A. Do you mean, Madam, the putting them into special education camps?

Q. Krupp recommended certain punishment for these workers; what was the purpose in Krupp making such recommendations?

A. The plant police and the plants had been instructed to report shirkers and those who broke their contracts, Germans as well as foreigners to the plant police. The plant police passed on these reports either to the Plenipotentiary of the Reich Trustee, or in the case of eastern workers, immediately to the Gestapo.

Q. Now, toward the end of the war, in 1944, was the plant police instructed to take up mistreatment or abuse workers, eastern workers, who were caught in theft?

A. I have already said that mistreatment was prohibited.

Q. Was there any change in 1944 in the treatment of eastern workers caught in theft—1943 or 1942?

A. Do you mean the treatment of the workers or the treatment of those caught in theft?

Q. I mean people caught in theft, who stole potatoes, for example.

A. Thefts, criminal offenses were dealt with by the criminal police, not by the State Police. There was a regulation in force that in the case of minor offenses, these people were to be warned and threatened in the case of minor offenses.

Q. Was the treatment more lenient in 1944 than in 1942?

A. I did not quite get the question at the beginning. Do I understand correctly that the question was thus, that treatment was more lenient in 1942 than it was in 1944?

Q. Were they more lenient in 1944 than in 1942, or was there no change at all?

A. Basically, there would have been no change, I would say. I do not know anything about individual cases.

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EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS WILLI TOPPAT*

DIRECT EXAMINATION

DR. POHLE (counsel for the defendant von Buelow): Please tell the Court your name.

WITNESS TOPPAT: My name is Willi Toppat. I live in Essen, Bueblichstrasse No. 4.

Q. Please spell your name.

A. T-o-p-p-a-t.

Q. Mr. Toppat, each question you have to answer is translated into English. Please wait, therefore, before answering, until my question has been completed. When the yellow light appears, that means, slow down; when the red light flashes, that means stop altogether. Were you an employee of Krupp?

A. Yes, from 1935 until 1945 I worked in Rolling Mill No. 1 as a grinder. In March 1945, I was drafted into the army.

Q. Did you belong to the Krupp plant squad?

A. Since 1939.

Q. Did you have a special rank in the plant squad?

A. No, I was a simple plant squad man.

Q. Did you work in the Dechenschule special camp.

A. Yes.

Q. How did you get there?

A. In the spring of 1944 I was ordered by my plant foreman to report to the Gestapo special camp in Dechenschule.

Q. Who gave you this order?

A. The plant spokesman.

Q. What did you do then?

A. I followed this order and reported to the then camp commander.

Q. Who was that?

A. A certain Fuehrer.

Q. Was that Fuehrer always the leader of the Dechenschule camp?

A. No, later on he was succeeded by a Mr. Rath.

Q. From the spring of 1944 until you were drafted into the army, did you continually work in the Dechenschule special camp?

A. Yes, with the exception of the time when at the beginning of my service I had rheumatism of the joints, and I had to stop working for several months.

Q. When did you return to work?

A. In September 1944.

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* Complete testimony is recorded in the mimeographed transcript, 18 May 1948, pp. 8343–8370.

Q. Did you have a special position in the Dechenschule camp?

A. No, I was not an assistant camp leader [Unterlagerfuehrer].

* * * * * * *

Q. Mr. Toppat, the prosecution has cross-examined here a number of former inmates of the Dechenschule special camp, and these witnesses reported that you were the so-called camp policeman, is that true?

A. No, that is not true. I can imagine that the inmates might come to this conclusion, because I was the only one in uniform there.

Q. What sort of uniform?

A. The blue uniform of the plant squad.

Q. Did you also have a weapon?

A. Yes, I had a pistol.

Q. Who authorized you to wear this pistol?

A. The camp commander, Rath.

Q. Did you ever use this weapon in the camp?

A. No, never.

Q. Mr. Toppat, the prosecution has produced witnesses and has tried to prove that you beat the inmates of the Dechenschule camp, is that true?

A. Yes, that is true.

Q. How did you come to do that?

A. This happened each time on special orders of the camp commander Rath.

Q. For what reasons did Rath give you such orders?

A. Always when the inmates had committed a serious violation of camp discipline or if they had committed any other punishable acts.

* * * * * * *

Q. Witness, you say that you received orders from your superiors, orders to beat inmates; do you use that as an excuse for not being punished yourself?

A. No. I do not make this testimony for fear of punishment. I want to tell the full truth in this Court.

Q. Do you want to protect someone else with your testimony?

A. No, I am explaining everything the way it happened actually.

Q. Do you know Hassel?

A. Yes.

Q. Was Hassel ever in the camp?

A. Yes.

Q. Did you consider Hassel your superior?

A. Yes, Hassel was superior to Rath, and he was a high ranking SS officer.*

Q. Did Hassel also give orders in the Dechenschule special camp?

A. I don't know. I do know, however, that when Hassel arrived at the camp the inmates had to come to order and take off their hats.

Q. With whom did Hassel talk when he was in the camp?

A. Mostly with Rath and Botten, and only with these.

Q. Did Hassel also give orders for beatings?

A. I myself never received any order from Hassel to beat inmates. He must have done this with Rath and Botten.

Q. Witness, the orders of Rath which you described, did you carry them out without opposition?

A. Well, Rath told us that we were in a Gestapo camp and that there was strict discipline for the inmates and for the guards without opposition.

Q. Did you carry out all orders of Rath and Botten?

A. No. Whenever I could, I tried to suppress orders, but I could only do it in such cases when I felt quite safe and thought that nobody would find out about it.

Q. Mr. Witness, did you ever talk with any of the leading officials of Krupp about the fact that you received such orders and had to carry them out?

A. No.

Q. Never?

A. No.

Q. Why not?

A. It would have been of no use because the Gestapo was above Rath and Rath called our attention to the fact that we were in a camp to carry out all the orders he would give us, and in addition that we would have to keep quiet about everything that went on there.

Q. Did he also threaten you with retaliatory measures, in case you would break the obligation to keep secrecy?

A. Yes, Rath told us that it would be just too bad for us if we did not obey his orders.

Q. Did you have any reason to assume that Rath would carry out his threats?

A. Yes, violation of the pledge to secrecy would, in accordance with the principles then prevailing, have entailed great punishment.

Q. Did it happen that guards were arrested by the Gestapo for such violations?

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* Hassel was deputy chief of the Krupp plant police and directly subordinate to Wilshaus, chief of Krupp's plant police. See section VIII C concerning treatment of foreign laborers.

A. Yes, it did. A number of guards were guilty of some small disciplinary failings and were taken away by the Gestapo without our ever knowing as to where they were taken, neither did their relatives know.

Q. Do you know whether the other guards behaved like that?

A. I am sure they did, because we often discussed this matter, and none of us wanted to get into the clutches of the Gestapo or endanger our lives.

Q. Do you mean to say by that, Witness, that everything that took place in the camp was kept secret without any of the leading officials of Krupp finding out about it?

A. Yes. That is what I am trying to say.

Q. Did any of the leading Krupp officials ever appear in the camp?

A. No, they would not have been admitted without some trouble, for this was a special camp and not everyone could go in as he pleased.

Q. Do you know whether the inmates had a right of complaint?

A. Yes, according to camp regulations, they did.

Q. To whom could they complain?

A. To the camp commander.

Q. Do you know whether the inmates ever succeeded in complaining to anyone outside of the plant?

A. I know of only one case where an inmate succeeded in going up to Mr. von Buelow.

Q. How did he do that, get to Mr. von Buelow?

A. This inmate worked in the main administrative building and in the office of Mr. von Buelow. Perhaps he felt Mr. von Buelow a good man and considered him decent, and he took courage one day to pour out his heart to him.

Q. What happened then?

A. When this became known in the camp the following day, there was a lot of excitement. Botten and Rath were very nervous, and I think Hassell and Rath had to go to Mr. von Buelow in connection with this matter.

Q. Do you know whether this discussion had any success?

A. No, I don't know. I remember, however, that the inmates in connection with this matter received a number of blankets, some warm underwear, and shoes.

Q. Mr. Witness, how did it happen that the inmate turned to Mr. von Buelow?

A. Well, there were always people employed in the main administrative office of Mr. von Buelow, and this inmate probably worked in Mr. von Buelow's office.

* * * * * * *

Q. Mr. Toppat, you said before that the leading officials of Krupp never came into the camp. Does that apply to Mr. von Buelow as well?

A. Mr. von Buelow rather frequently came into the camp.

Q. Did Mr. von Buelow have any authority in the camp?

A. I don't think so.

Q. Why not?

A. Mr. von Buelow was not our superior. Rath was our superior, and over Rath was the Gestapo. Mr. von Buelow would not have been able to get into the camp so easily. He had to get a pass from the camp commander, had to report to him each time, and he did that through the guard who was standing in front of the camp. Hassel, on the other hand, could enter as he pleased.

Q. What was the reason of von Buelow ever visiting the camp at all?

A. I am afraid I don't know. I think Mr. von Buelow was the counterintelligence officer of the Cast Steel Works, and that perhaps he was interested in the counterintelligence or security measures. In my opinion, he came rather for humane reasons to the camp.

* * * * * * *

Q. You said that Mr. von Buelow came into the camp for humane reasons. Did he ever talk with the inmates?

A. Mr. von Buelow always talked to the inmates in a friendly manner.

Q. Do you know what he talked about with them?

A. No, I am afraid I don't know.

Q. Did he talk with them in French?

A. He always talked in a foreign language which I didn't understand.

Q. Do you know whether the contents of the discussions was friendly one?

A. Yes, I concluded that from the gestures; secondly, I myself saw that several inmates would cry tears after one of these visits, and then inmates came to me who said to me, "Mr. Willi, Buelow good, Buelow is a good man. He always cares for us."

Q. Did Mr. von Buelow show himself as a superior toward the inmates?

A. No, he didn't play the superior, and he really wasn't. These people, in contrast to Hassel's visits, didn't have to come to attention when Mr. von Buelow came, and they also did not have to remove their headwear.

Q. Do you remember cases in which Mr. von Buelow intervened for the inmates?

A. Yes, I remember one special case. There was a sick Belgian

inmate a Mr. von Merraud, and Mr. von Buelow saw to it that this man was sent to the hospital as fast as could be done. When diphtheria broke out in the camp, Mr. von Buelow did everything in his power to get these people into the hospital as fast as he could.

Q. You say that Mr. von Buelow had a very humane attitude. Why did you never go to Mr. von Buelow and tell him about the orders of Mr. Rath which you received?

A. I didn't do it because I would have endangered myself, particularly, Mr. von Buelow would have made a lot of trouble for Rath, and I didn't think there would be any use in that.

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EXAMINATION BY THE COURT

JUDGE ANDERSON: Mr. Witness, did you understand that Rath and this other man, his deputy—I never understood his name, B—something—

WITNESS TOPPAT: B-o-t-t-e-n, Botten.

Q. Did you understand that they had learned about the fact that this camp inmate had told von Buelow about the conditions in that camp and that that is what made him nervous?

A. Yes, I think so.

Q. Well, you said that the inmate poured out his heart to von Buelow, didn't you?

A. Yes.

Q. And you were referring then to the treatment that was accorded those inmates in that camp, weren't you?

A. Yes.

Q. How did you learn that Rath and Botten found out about that and as a result became nervous?

A. The matter was discussed in the camp that an inmate had managed to go as far as Mr. von Buelow.

Q. Well, how did you find out that Rath and Botten became nervous about it? Were they afraid that von Buelow would do something to them about it. Is that what you mean?

A. Yes, that is how it must have been.

Q. Well, then didn't—nothing was done to them was it?

A. No, Botten remained in the camp and Rath also came into the camp.

Q. I understood you to say instead of getting better that toward the end the beatings got worse.

A. Yes.

Q. Who gave you that leather truncheon you beat these people with?

A. Botten.

Q. Was Botten an employee of the Krupp firm?

A. Yes.

Q. Was Rath an employee of the Krupp firm?

A. I don't know.

Q. Where did Botten get this truncheon from?

A. I don't know.

Q. How many of them were issued?

A. In the camp there was only one.

Q. What did von Buelow come to the camp for, if it was not to investigate the conditions there?

A. I think I said before that Mr. von Buelow as counterintelligence agent was concerned with the security measures of the camp. My opinion was that Mr. von Buelow whenever he came to the camp talked with the inmates in a very friendly manner.

Q. Now, I understood you to say that on one occasion von Buelow procured additional clothing and shoes, perhaps something else. Did I understand you correctly?

A. Yes, that is right.

Q. Did the Gestapo make any objection to that?

A. No. I did it like this. I distributed these things as quickly as possible. Each one who came to me got whatever I had, blankets, underwear, new foot pads, shoes, and then I got into trouble over this with Botten because I just handed out these things.

Q. From whom did you get them?

A. They were brought in as far as I know by the main administration.

Q. Was there ever any objection by the Gestapo at all to any intervention on the part of von Buelow in the affairs of the camp?

A. No, I couldn't tell you. I don't know.

Q. Now you said also that von Buelow would have made a whole lot of trouble for Rath if he had known about these beatings. What did you mean by that?

A. Mr. von Buelow was generally called by Rath and Botten a woman, they said he had a heart like a woman. That is what I heard from their conversations, when Rath and Botten discussed him.

Q. Yes, but that is not what I asked you. I understood you to say, in fact you did say that von Buelow had he known the true condition would have made a whole lot of trouble for Rath, didn't you say that? Or that in substance?

A. Yes.

Q. What did you mean? What kind of trouble could he have made for Rath?

A. I pictured it something like this. If Mr. von Buelow had ordered something and Rath did not comply with these orders of

Mr. von Buelow, Rath would perhaps have informed the Gestapo, and I myself think that one fine day Mr. von Buelow would have disappeared, just as I would have.

Q. That would have been trouble for von Buelow. I understood you to say von Buelow would have made trouble for Rath.

A. Yes, that is true.

Q. What I want to know—I beg your pardon, have you finished?

A. Well, perhaps Rath would have laughed off the threats of von Buelow.

Q. Well, now you still haven't answered my question, Witness. What kind of trouble were you referring to when you said that von Buelow could have made trouble for Rath or would have done so?

A. There would have been trouble, perhaps a lot of trouble between Mr. von Buelow and Rath.

Q. What kind of trouble?

A. Mr. von Buelow might have threatened Rath with dismissal or something.

Q. Well, Rath stayed there, didn't he, as long as you were there?

A. Yes.

Q. You said that when you received the order to beat these people up that whenever it was possible you tried to suppress them I believe was the word you used, why did you do that?

A. I felt sorry for these people because I couldn't just punish these people like that. I didn't know them and I never had seen these people before. I had to punish them because that was a direct order and when I was alone for a moment, I wouldn't do it.

Q. Weren't you afraid that the Gestapo would find that out and as a result you would disappear?

A. Yes. We were always threatened with the Gestapo.

Q. Well, you weren't afraid in spite of their orders in not beating them I understand, is that correct?

A. I didn't understand that.

Q. You weren't afraid of the Gestapo to that extent, were you?

A. Do you mean me?

Q. I mean that when you refused to carry out orders to beat them in the instances in which you did, you were strictly violating orders of the Gestapo, weren't you or Rath?

A. Yes.

Q. Well, now, you didn't have any apprehension about the consequences to you of refusing to carry out Rath's orders?

A. Rath gave us special orders and always called our attention to the fact that his orders were to be carried out explicitly.

Q. Yes. Well, I will let that alone. It seems hopeless. There is one other matter I wanted to ask you about. Did you ever

inquire of any of these people as to why they were ordered beaten? Did you ever make any effort to find out the reason for which they were being punished?

A. Yes. We never found out about it.

Q. You mean that the inmates themselves wouldn't tell you?

A. No, not about the beating.

Q. Did you ever inquire of the people whom you beat as to why, what they had done if anything?

A. Afterwards, when I was together with the people again I asked them now and then, tell me comrade why are you in the camp, and they shrugged their shoulders. We didn't understand each other because they spoke their own language.

Q. What were they, Belgians and Frenchmen?

A. Yes.

JUDGE ANDERSON: That is all.

JUDGE WILKINS, Presiding: Judge Daly?

JUDGE DALY: Germany surrendered 3 years ago. Have you been faced with any proceedings since then?

WITNESS TOPPAT: When in August of 1945 I returned from captivity and I don't remember the exact date, it probably was at the end of August or the beginning of September, I received a summons from the police headquarters in Essen to report to room—I forgot the room number. I didn't know what this was all about, but I answered the summons. I was interrogated there and then I was released.

Q. Who interrogated you?

A. I think police officials in civilian clothing.

Q. Did you tell them the way you had beaten up these people, these helpless people?

A. Yes.

Q. And nothing was done to you?

A. No.

Q. Don't you know the names of any of these people you say you told this to?

A. No, I don't know—remember the names of police officials.

Q. Are you a Nazi?

A. No.

Q. Were you ever?

A. No.

Q. You had no denazification proceedings against you?

A. No.

Q. Was any complaint ever made to the Americans in Essen about you?

A. I don't know. I received the summons I told you about from the police, but nothing else.

Q. And when you went there, you admitted that you had beaten these helpless people?

A. Yes.

Q. You admitted it just as frankly as you admitted it here today?

A. I was told I shouldn't deny anything I had done. I was to tell everything I had done, and I did thereupon.

Q. And did you tell them then that this man Rath had directed you to beat these defenseless people?

A. Yes.

Q. Was anything done to Rath then?

A. After my release from captivity I never saw Rath again.

Q. I didn't ask you that. This all happened in Essen after you had returned from—in August 1945, hadn't it, when you were interrogated?

A. Yes, but I never saw Rath again.

Q. Didn't you know whether anything was done to Rath or not?

A. No.

JUDGE ANDERSON: One question more, Judge Wilkins.

I understand these orders for these beatings, according to your testimony, Rath got from the Gestapo, or did I understand you correctly about that?

WITNESS TOPPAT: Yes. The orders were received by us from Rath, and I assumed, because Rath was an SS member, that he received his orders from the Gestapo.

Q. Did you know whether the Gestapo made any effort to see that Rath carried out those orders.

A. No.

Q. Before Rath came there, Fuehrer occupied the same position, didn't he?

A. Yes.

Q. Was he keeping the same relation to the Gestapo that Rath did?

A. No, I don't think so.

Q. What was the difference?

A. I only saw Fuehrer in the morning when I started working. I received approximately—I was given charge of 20 to 30 sometimes more inmates, went with them to my labor detachment, returned in the evening, brought the inmates back to the camp from where I went home and I checked off with the camp commander. He was always very decent to me.

Q. It is quite apparent you didn't understand my question, Witness, I asked you if Fuehrer's relation to the Gestapo was the same as that of Rath?

A. I am afraid I don't know.

Q. Well, there weren't any beatings under Fuehrer—you testified—were received under his administration, were there?

A. No, I don't remember any cases.

JUDGE ANDERSON: That is all.

EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS FRITZ FUEHRER*

DIRECT EXAMINATION

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DR. POHLE (counsel for the defendant von Buelow): What was your work at Krupp's?

WITNESS FUEHRER: First of all I was a gatekeeper, and a year later I became a plant police foreman.

Q. How strong was the plant police at that time?

A. About 200 men.

Q. Did you wear a uniform?

A. Yes. We had a blue uniform.

Q. You said a blue uniform?

A. Yes.

Q. What were the duties of the plant police?

A. The plant police had to guard the gates, to check up, to patrol, to prevent thefts, and to investigate any thefts that had occurred.

Q. As a plant police foreman, were you an auxiliary policeman?

A. Yes.

Q. Did that apply to all plant police foremen?

A. Yes, as far as I know.

Q. Who was the superior of the plant police?

A. The plant police when I was there were under Mr. Kutzi, and after he left, Mr. Wilshaus.

Q. Was there a deputy plant police leader?

A. Yes. His name was Hassel.

Q. From when on was he there?

A. Roughly, from 1938, after Mr. Kutzi had left.

Q. Do you know where Mr. Hassel worked before he got that job?

A. As far as I remember, he was a fitter. He had become a member of the Party very early, and at the time he was an Obersturmbannfuehrer of the SS. As such he became deputy leader of the plant police at Krupp's.

Q. Did you also work at the foreigners' camps of Krupp's?

A. Yes.

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* Complete testimony is recorded in the mimeographed transcript, 17 and 18 May 1948, pp. 8277–8328.

Q. When was that?

A. From the middle of 1942 I was at the eastern workers' camp, Kraemerplatz.

Q. Who was the camp commander of that camp at that time?

A. Mr. Weihberg.

Q. Did you later become camp leader of the Kraemerplatz camp?

A. Only later on.

Q. When was that?

A. Shortly before I became a member of the main camp administration.

Q. On 27 October 1942, Witness, there was a meeting of the camp commanders and the factory guard. I shall refer to this immediately. I am just waiting for the document to come. Meanwhile, I shall ask you about the Dechenschule camp. Were you later camp commander of the Dechenschule camp?

A. Yes, after the Kraemerplatz camp was destroyed by bombs in 1943, Mr. Kupke asked me to take over the so-called Special Camp Dechenschule. I accepted that offer and in February 1944 I became camp commander there.

Q. What kind of camp was that?

A. The Dechenschule camp had been set up by orders of the Gestapo. The plant police was to supply the supervision and guards. Most plant police members were guards at the camp, but there were also some former employees of the plant squad which was responsible for guarding various premises. They supplied some of the guards.

Q. What was the purpose of that camp?

A. The purpose was to punish foreign workers who had not come back from their holiday or who had broken their contracts. They had to be caught in their home country. They were to be transferred to Dechenschule camp. They had to stay there for 3 months.

Q. You said by order of some one, but you didn't say who.

A. That was done by order of the Gestapo.

Q. What happened to the people after they had served the 3 months at Dechenschule?

A. They were then released to free labor camps.

Q. Did you ever talk to the inmates there?

A. Yes, repeatedly.

Q. What did the people tell you about their arrests?

A. Some of them said that they had been picked up in the streets, were arrested on the spot, and were then sent in groups of twenty or more to Germany, and put into the camp.

Q. How was the camp equipped?

A. There were two stone buildings which had formerly been schools in the camp. The rooms were equipped as living rooms. It was surrounded by barbed wire. We only had a guard at the gate who would also patrol the courtyard during the night, but we had no guard towers.

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Q. Were there any detention cells in the camp?

A. Yes, three.

Q. Was anybody ever put in those cells while you were there?

A. No, while I was there none of the camp inmates was put into those cells. Only some eastern workers which had been picked up by the plant police because of theft were kept by me in custody until the police could fetch them.

Q. Did the camp inmates have any possibility of voicing complaints?

A. Yes, at any time.

Q. To whom?

A. To me.

Q. Did the people know that they could complain to you?

A. I always had this information given by the interpreter.

Q. Did anybody complain to you?

A. Yes. However, in most cases the complaints referred to the food and some other things; for instance, they would complain about their shoes, and they very often wanted to get more tobacco.

Q. You say they asked for tobacco. Did they get a ration?

A. No, they did not get any tobacco. However, I mentioned that to Mr. von Buelow on one occasion, and he saw to it that we got some tobacco ration which they actually did receive.

Q. What did Mr. von Buelow have to do with the matter?

A. I think Mr. von Buelow did that because he took a purely humane interest in those people.

Q. Were there any craftshops in the camp?

A. Yes, I had two of them. I had a tailor shop and a carpenter shop. Craftsmen were working there.

Q. What about the clothing of those inmates?

A. When the people arrived, they had to surrender their civilian clothes which were kept for them in a special room for the time they spent in the camp. When they were ready for release, they were given back their civilian clothes. While they were at the camp, they received a suit of blue working clothes which was issued by order of Mr. Hassel and carried a yellow stripe on the back and on the trousers.

Q. What about the morale of the people?

A. While I was there, I did not have the impression that the camp was like a prison. After they had finished their daily jobs,

the people were allowed to move about freely and very often there were sports activities in the evening, and there was some entertainment.

Q. If you say the people were allowed to move about freely, you mean in the courtyard of the camp?

A. Yes, that is what I mean. They could walk about there.

Q. Did you have any personal contact with the inmates?

A. Well, I lived in the camp, and I had direct contact with them.

Q. Did the camp inmates tell you whether they felt mistreated?

A. No, on the contrary.

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Q. Witness, we discussed yesterday your activity at the Dechenschule camp. How were the people allocated to work?

A. The ruling was that at first they should be employed at heavy and dirty work.

Q. What kind of work were they given?

A. Some of them were put to the furnaces and some were used for carting slack, but since many of the workers were skilled workers, they were even used in the plant, itself. Some of them were used in the Krupp hospital. We had some inmates who worked there for quite a time and they liked the work in the hospital. They received additional food there.

Q. You mentioned that there was a ruling that the camp inmates should be given heavy work. Now, who had issued that ruling?

A. I only know about the instruction from Mr. Hassel.

Q. Did you give regular reports about the conditions at the camp?

A. Yes, I made reports on strength, escapes, sick list, and I gave those reports to the Gestapo via the plant police. Other reports were made to the plant police directly.

Q. Where did you say these reports go?

A. They went via the plant police.

Q. And what did the plant police do with these reports?

A. The reports of strength and escapes were handed to the Gestapo by the Werkschutz.

Q. I have submitted here quite a number of such reports which the Dechenschule camp sent directly to the Gestapo, but you say they went via the plant police.

A. Yes. It was the rule that they would always go via the plant police—

Q. But to whom were they addressed?

A. To the Gestapo.

Q. We have already mentioned Mr. von Buelow, and you said

that it was a humane interest which made him deal with those inmates. Did Mr. von Buelow also help with the provision of material for the building of air raid shelters?

A. Yes, he did so very much. I went to see Mr. von Buelow for that reason on one occasion, and asked him to help me get the necessary material. He immediately did his very best and went with me to the plant leader of the construction plant, Mr. Sorin, and arranged that I be given the material for the shelter. He later on also saw to it that the building of the shelter was carried out without delay.

Q. Was that the normal way of getting supplies for Dechenschule?

A. No, the regular channel would have been to apply to the plant police.

Q. Now, one more question about Dechenschule, did you discuss the treatment of the inmates with Mr. von Buelow?

A. Yes, I did.

Q. What was his point of view?

A. Mr. von Buelow always told me to be strict but fair.

Q. Witness, I would like to refer once more to your activity as camp leader in Kraemerplatz camp, that is before you came to Dechenschule camp. On 27 October 1942 there was a meeting of camp leaders, on which we have some file notes, which the prosecution has submitted as Exhibit 905, in book 36, German page 23, English page 18. I will show you these notes in a moment, and I would like to ask you whether you were present at that meeting?

JUDGE ANDERSON: What was that prosecution exhibit number, please?

DR. POHLE: Prosecution Exhibit 905, Your Honor, Document No. D–144.* It is in book 36, on page 18.

Mr. Fuehrer, were you present at that meeting?

WITNESS FUEHRER: Yes.

Q. You see that various items were discussed during that meeting, one of them being that the Gestapo had informed the plants that they had now adopted the practice of meting out corporal punishment to any escapees or other suspicious elements. Do you know of any such instruction by the Gestapo?

A. I know of it. I know the Gestapo issued such an instruction. The camp leader at that time, Weihberg, told me about it.

Q. Did he tell you how he received this instruction?

A. As far as I remember, he told me it was given him orally by a Gestapo official.

Q. Was it extraordinary that the camp leader Weihberg should receive instructions from the Gestapo?

* Reproduced in section VIII C 1.

A. No, that wasn't extraordinary. He repeatedly had to make inquiries with the Gestapo about the treatment of Eastern workers etc. The Gestapo had special instructions for the supervision of eastern workers camps and treatment of eastern workers.

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Q. Would Mr. Weihberg, according to existing regulations, have to report those people to the Gestapo?

A. Yes, and he did so. Usually it happened, as Weihberg told me, that the Gestapo told him: "Don't always report these people to us—punish them yourself on the spot."

Q. Now, if according to this memorandum of 27 October 1942 (*D–144, Pros. Ex. 905*), the Gestapo had ordered that all such elements should receive corporal punishment, do you think that these instructions are meant in the memorandum of which you have just spoken?

A. Yes, I think so.

Q. Did Mr. von Buelow know those regulations before this camp leaders' meeting?

A. I don't think so, because Weihberg received those instructions directly from the Gestapo.

Q. Was Mr. von Buelow present at the camp leaders' meeting of the 27 October?

A. I didn't understand the question correctly?

Q. Did Mr. von Buelow learn about the instructions that Mr. Weihberg had received from the Gestapo directly—did he learn about them in the meeting of 27 October?

A. Yes, I should assume so, because Mr. von Buelow shook his head. I remember that very distinctly, and he said: "That has nothing to do with us and we don't want to have anything to do with it. That is for the Gestapo."

Q. What else happened in that meeting?

A. The camp leaders present said that the conditions in the camp would become more disorderly and that the undesirable elements would have free play and that we would not be able to take the responsibility for orderly conditions at the camp.

Q. What was arranged then?

A. Any of the inmates who would display a position of disobedience and also thieves who were caught in flagrancy should be punished.

Q. A number of cases are mentioned here which repeat what you have just told us. Now, are those the cases which you mentioned, that is, that they were only allowed to give bodily punishment in order to break down active resistance?

A. Yes.

Q. This note also mentions a camp book. What kind of book was that?

A. Mr. Wilshaus the plant police leader, was very punctilious. He wanted all such cases recorded in a camp book.

Q. And was that done?

A. Yes.

Q. Mr. Hassel was also present at that meeting. What part did he play?

A. Mr. Hassel was deputy Werkschutz leader. He was a fanatical National Socialist.* He also looked for and found among the Russians some commissars and other undesirable elements whom he treated ruthlessly.

Q. Did Mr. Hassel wear a uniform at the plant?

A. Hassel was a lieutenant colonel in the SS and wore that uniform repeatedly.

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EXAMINATION BY THE COURT

JUDGE ANDERSON: Witness, I am not clear about whether you worked at Kraemerplatz camp before you worked at Dechenschule or vice versa?

WITNESS FUEHRER: At first I was at the Kraemerplatz camp and then I came to the Dechenschule camp.

Q. How long were you at the Kraemerplatz camp?

A. From 1942, that is the middle of 1942 until the time the camp was destroyed in 1943.

Q. Then where did you go?

A. Then after I had been employed somewhere else for a short time I was sent to the Dechenschule camp as leader.

Q. When did you arrive there?

A. I arrived at Dechenschule camp in February 1944.

Q. How long did you stay?

A. Until June 1944.

Q. Were you in charge of that camp?

A. Yes, from the time I mentioned.

Q. Did you report to von Buelow when you were at Dechenschule camp?

A. No, I made my reports to the plant police.

Q. By whom were the plant police employed?

A. I can't tell you that for certain. I thought at the time that the plant policemen were subordinate to Mr. von Buelow, but I was led to assume that because Mr. von Buelow as counterintelligence agent could use the plant police.

Q. What did von Buelow have to do with the Dechenschule camp?

A. I don't think anything.

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* See Document NIK–14364, Prosecution Exhibit 1593, reproduced above.

Q. Well, did he concern himself to any extent about what was going on at that camp?

A. Mr. von Buelow took an interest for humane reasons. I could take my worries and troubles to Mr. von Buelow. He was always ready to hear me and help me.

Q. Well, if he had no duties or responsibilities in connection with that camp, why did you take your troubles to him?

A. Because after every air raid Mr. von Buelow was always around and tried to help. He always investigated what had been destroyed, et cetera. In that connection he often asked me what other worries I might have and one could always tell him all the troubles, he was always ready to help.

Q. Did he help?

A. Yes, he did.

Q. Now, I am not sure whether I understood what you are trying to say. Did or did not von Buelow have any duties or responsibilities in connection with the Dechenschule camp apart from the reasons of humanity?

A. No, otherwise Mr. von Buelow had nothing to do with the camp. The camp Dechenschule was the camp of the Gestapo.

Q. Well, now was Kraemerplatz camp a penal camp?

A. No, it was not. It was a free eastern workers camp.

Q. What do you mean by free eastern workers?

A. It means that the people in it were free. It was just like any other camp [Gemeinschaftslager].

Q. I understood you to say that they were under guard and that originally they could only go out under guard. I may have misunderstood you.

A. Yes, that is correct. Those were regulations issued by the Gestapo.

Q. Well, do you—is that your understanding of the meaning of the term free?

A. I can't say that.

Q. Now you spoke yesterday about the time that or when you first went to Dechenschule, at least I so understood you, that you were not satisfied with the food the inmates of that camp were getting, is that correct?

A. Yes, that is correct.

Q. And what was the matter with the food?

A. At first the inmates of the Dechenschule camp, as I said yesterday, received by order of Mr. Hassel the normal food for eastern workers, but later on they were given the western rations with all additional rations and that was very good.

Q. That is not quite what I asked you. I asked you what was the matter with the food in your opinion that made you think it was insufficient, was it the quantity or the quality?

A. The people complained that they had not enough and they were never satisfied with the meal. They were hungry immediately. They didn't receive sufficient bread and their noon meal was not sufficiently large.

Q. In what respect was it insufficient, Witness?

A. As I said there just wasn't enough of it.

Q. Well, of what did it consist?

A. It was a soup, a sort of stew with potatoes in it and some other similar food, noodles or whatever was available according to the rations we received; it was all cooked together.

Q. Well, you said that they complained about it, but you, yourself thought that the complaints were well founded, didn't you?

A. Yes, Your Honor.

Q. Did you think it was insufficient for people doing the kind of work they were required to do?

A. Yes, I appreciated that fact.

Q. And through your efforts better food was obtained?

A. Yes, Your Honor.

Q. Now, what official of the Krupp firm helped you get that better food?

A. I discussed the matter with Mr. Kupke and I told him the people complained that they weren't having enough food. Mr. Kupke said that the people concerned were after all western workers, and why didn't I try and apply for western rations. I pointed out to him that this food was given to them on the explicit order of Mr. Hassel and this would be by-passing Mr. Hassel's instructions. But I arranged these western rations with Mr. Kupke, and he gave me the permission to apply for them.

Q. Notwithstanding the attitude of this man Hassel or what is his name—I can't—I never have understood exactly.

A. H-a-s-s-e-l.

Q. Hassel?

A. Yes.

Q. Now, Kupke did that notwithstanding, I beg your pardon, I didn't catch the answer.

A. Yes, Mr. Kupke did that in spite of Mr. Hassel's order.

Q. Was Hassel a Gestapo man?

A. Hassel was an SS officer. His rank was equivalent to a lieutenant colonel in the SS. He was also deputy leader of plant police.

Q. Well, now by whom was he paid as the factory guard?

A. By Krupp, that was paid by Krupp.

Q. What did Kupke—what did he have to do with the Dechenschule camp?

A. As deputy leader of the plant police he had certain duties

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in the Dechenschule camp because the plant police had to supervise the Dechenschule camp and to guard it.

Q. Now are you—

A. Had to guard the Dechenschule camp.

Q. Are you referring to Mr. Hassel or Kupke?

A. No, I am referring to Mr. Hassel as the plant police officer.

Q. I think perhaps you misunderstood my question. My inquiry was what did Kupke have to do with the Dechenschule camp that made you go on to him when you wanted to get better food for them?

A. I regularly attended the camp leader meetings. Mr. Kupke had nothing directly to do with the Dechenschule camp. He told me so expressly. In spite of that I approached Mr. Kupke, and he had great understanding for my troubles and he arranged for, at least approved, that I should apply for western rations.

Q. Now, did these meetings of camp leaders to which you referred as having been held while you were at Kraemerplatz and at which the conditions in the camp were discussed, were they held also during the time that you were at the Dechenschule camp?

A. Yes, Your Honor.

Q. Were they attended by Kupke and Ihn?

A. Only Mr. Kupke, not Mr. Ihn.

Q. I may have misunderstood you but I thought you said that Ihn attended the camp leader meetings while you were at Kraemerplatz?

A. No, Mr. Ihn only inspected the Kraemerplatz camp.

Q. Perhaps that was what you had said. Well, now, at these meetings attended by Kupke during your stay at the Dechenschule camp, were conditions at that camp discussed?

A. No, as I said earlier, the Dechenschule camp had nothing to do with Mr. Kupke. I attended these camp leader meetings only for my own interests.

Q. Now, these rations that were originally—or the food rather which was originally given, this food that you thought was insufficient, I understood you to say was the normal food that was received by eastern workers.

A. Yes, Your Honor.

Q. Is that the same kind of food that was—

A. But with the only difference that the eastern workers also should have received heavy and very heavy additional rations, but on the order of Hassel these were not issued at the Dechenschule camp.

Q. Yes, I understand, but was this food which you regarded as insufficient served to the eastern workers at Kraemerplatz during the time you were there?

A. No, at the Kraemerplatz the food was much better. In addition the people had their heavy and very heavy workers rations.

Q. Yes, I know that. Now, Witness, I want you to tell the Tribunal what you mean when you say that this food you regarded as insufficient was the normal food of eastern workers?

A. Yes. At the Dechenschule it was insufficient for the heavy work the people were expected to do, that was definitely insufficient.

Q. That is not what I asked you. You said that this food that you regarded as insufficient was the normal food of eastern workers. Now, what did you mean by the normal food? Did you mean the food that they normally and ordinarily gave to eastern workers?

A. Yes, it was that.

Q. Where were the eastern workers employed that got this normal food which you regarded as being insufficient?

A. That varied. The eastern workers were employed in various plants and almost all of them received additional ration cards.

Q. Well, when you got Kupke interested in this matter, he was successful in improving the food for the inmates of the Dechenschule camp, as I understand it?

A. Yes.

Q. Were you at Dechenschule camp when these Belgians were brought there?

A. Yes.

Q. And what were they brought there for?

A. The Belgians told me or rather the regulations was in existence that any of those who had been guilty of breach of contract or had been picked up after escaping in their own countries should be transferred to the Dechenschule camp.

Q. These Belgians hadn't ever escaped had they? They had never been at Krupp before?

A. I asked some of them and they said no, they hadn't escaped.

Q. Didn't you say yesterday that these people or some of the inmates of that camp told you that they were picked up on the streets and brought in?

A. Yes, that is correct.

Q. Now did I understand you to say also regarding these slit trenches that you regarded them as being insufficient as air raid shelters?

A. That was at the Kraemerplatz.

Q. Yes, that is true, but that is the kind of shelter you regarded as insufficient, isn't it?

A. Yes, I didn't think the slit trenches were sufficient.

Q. Was that the kind of trenches that had been provided for that camp when it was a camp for prisoners of war?

A. Yes, yes, that was the kind of trench.

Q. How long had that Kraemerplatz camp been a prisoner of war camp before it was converted to an eastern workers' camp?

A. That I am afraid I don't know. I don't know when the first prisoners of war came there. During that period I wasn't there.

Q. What was the difference between the Dechenschule camp and a concentration camp, if any?

A. I have never seen a concentration camp from the inside, but I can say that the Dechenschule camp did not give the impression that it was a prison, only insofar as it was surrounded by barbed wire fences and that guards were at the gate or that there were guards patrolling the camp.

Q. What kind of clothes were given the prisoners to wear?

A. They were given a suit of blue working clothes and, by order of Mr. Hassel, they had a yellow stripe on that suit.

Q. What was the yellow stripe for?

A. It was to mark them and identify the inmates of the Dechenschule camp.

Q. Were these guards that guarded the camp, armed guards?

A. Yes, the guards carried carbines.

Q. By whom were these guards employed?

A. Some of the guards came from the plant police and part of them came from a private safety organization who had been applied for by the plant police because their own numbers were insufficient. Those guards were usually old people.

Q. Were they paid by the Krupp firm?

A. They were paid by the plant police, and that was Krupp.

Q. Who furnished the guns they carried?

A. That I don't know; that was arranged by the plant police.

Q. This man Hassel had put this girl in the cellar. Was his conduct reported to Ihn?

A. I don't think so. Hassel took care of that case himself.

Q. Yes, I understand that; obviously. Was Hassel allowed to remain there as an employee of the firm until the end of the war?

A. I cannot tell you exactly because I left Krupp in June, 1944.

* * * * * * *

CROSS-EXAMINATION

* * * * * * *

MR. RAGLAND: You testified concerning the picking-up of persons on the street in Belgium and elsewhere and bringing them to Dechenschule. Did you discuss this matter with von Buelow?

WITNESS FUEHRER: I informed Mr. von Buelow of that.

Q. You discussed at some length the question with von Buelow, did you not?

A. I had told Mr. von Buelow that the people had told me they had been picked up in the street and had been taken to Germany and put in Dechenschule camp.

* * * * * * *

Q. Did you not in May 1944 in writing to your superior concerning the building of additional rooms at Dechenschule, three additional rooms to house 135 persons, state (*NIK–15367, Pros. Ex. 1505*):[1] "I wish to add that assignment of foreign workers through the labor office depends only on the reception capacity of the special camp Dechenschule."

A. That is possible because the labor office often asked us whether they could put more people into the camp, and when we told them the equipment and strength of the camp, they saw that they couldn't put any more in. It is possible that I said in case the camp was extended we could receive more people. That I know.

Q. Can you identify this letter?

A. Yes, that's correct.

* * * * * * *

E. The Children's Camp at Voerde

1. REPORTS OF DEATHS OF CHILDREN AT THE VOERDE CAMP

PARTIAL TRANSLATION OF DOCUMENT NI–2916
PROSECUTION EXHIBIT 1549

REPORT OF KRUPP'S MAIN CAMP ADMINISTRATION, 4 JANUARY 1945, TO VARIOUS AGENCIES ON THE DEATH OF A CHILD OF A FOREIGN WORKER AT KRUPP'S CAMP VOERDE[2]

Essen, 4 January 1945

Friedrich Krupp
Main Camp Administration
To: Gau Administration, Kreis Administration, Labor Office, Labor Safety Office, Works Insurance Office, First Aid Station, Central Register, Community Camp

Mr. Pless [handwritten]

[1] Reproduced in section VIII D 1.

[2] The entire exhibit contained numerous individual death reports.

Subject: Death of the child of an eastern worker.
Last name: Bohdanowa
First name: Lydia
Born on: 26 May 1944 in: Essen
Family status: Child
Entered:
Work shop: Employment No.
Last working day:
as:
Camp: Voerde-West
The burial will take place on: 4 January 1945
Taken to a hospital:
By: Main Camp Administration
Hospital:
Cemetery: Friedrichsfeld
Died on: 30 December 1944
Time: 0600
Legacy: none
Cause of death: Scarlet Fever
Address of relatives:
Mother: Bohdanowa, Wera
Employment number: 519837
[Stamp] Signed: SCHULTEN

PARTIAL TRANSLATION OF DOCUMENT NIK–12922 PROSECUTION EXHIBIT 921

AFFIDAVIT OF THE REGISTRY OFFICE CHIEF AT VOERDE, 22 NOVEMBER 1947, WITH EXTRACTS FROM DEATH REGISTER* WHICH LISTED DEATHS OF 88 CHILDREN OF EASTERN WORKERS AT KRUPP'S VOERDE CAMP BETWEEN AUGUST 1944 AND MARCH 1945

AFFIDAVIT

I, Ernst Vowinkel, of Voerde, Niederrhein [lower Rhine], have been informed that I make myself liable to punishment if I make a false statement on oath. I hereby state the following on oath, voluntarily and without having been subjected to coercion or duress:

I have been in charge of the registry office [Standesamt] at Voerde, Niederrhein, since 1 July 1946.

Under my supervision the attached extracts were drawn up from the register of deaths containing the names of eastern workers' children, who died in the children's camp Voerde-West, of the cast steel works of the firm of Fried. Krupp in Essen, between August 1944 and March 1945.

I have personally compared the extracts, four pages, I have

* The extracts from the death register show 88 deaths. However, death reports submitted to other agencies by Krupp's main camp administration indicate that other children died at Camp Voerde (*NI–2916, Pros. Ex. 1549*), a part of which is reproduced immediately above.

signed each page with my name, and I hereby confirm that these extracts contain the pure truth.

I have carefully read this one page of this affidavit, I have made the necessary corrections in my own handwriting, and have initialed them, and I hereby declare on oath that I have in this statement said the pure truth.

[Signed] ERNST VOWINKEL

No.	Name	Date and place of birth	Place of death	Date of death	Cause of death	Reg. No.
1	Naumenko, Anna.	23/12/1943 Essen.	Voerde (Ndrh.)	4/8/1944	Pneumonia	200/1944
2	Chodolowa, Wladimir.	3/2/1944 Altenhof.	Voerde (Ndrh.)	19/8/1944	Unknown	211/1944
3	Kotenko, Nikolaj.	25/6/1944 Essen.	Voerde (Ndrh.)	11/9/1944	Tuberculosis.	231/1944
4	Petrowa, Halina.	1/4/1944Essen	Voerde (Ndrh.)	14/9/1944	Tuberculosis.	234/1944
5	Amelina, Olga.	4/5/1944Essen	Voerde (Ndrh.)	26/9/1944	Tuberculosis.	243/1944
6	Sastaschkowa, Maria.	6/2/1944 Essen.	Voerde (Ndrh.)	29/9/1944	Pneumonia	249/1944
7	Moltschiusnaja, Eduard.	20/4/1944 Essen.	Voerde (Ndrh.)	29/9/1944	Malnutrition.	250/1944
8	Bernazkaja, Wladimir.	24/3/1944 Essen.	Voerde (Ndrh.)	30/9/1944	Malnutrition.	251/1944
9	Taranin, Novik.	11/6/1944 Dinslaken.	Voerde (Ndrh.)	1/10/1944	Malnutrition.	255/1944
10	Pichtin, Wladimir.	25/6/1944 Essen.	Voerde (Ndrh.)	2/10/1944	Malnutrition.	256/1944
*	*	*	*	*	*	*
84	Rabzewa, Valentina.	24/2/1945 Voerde (Ndrh.)	Voerde (Ndrh.)	26/2/1945	General weakness.	149/1945
85	Kalinko, Valerij.	7/12/1944 Lintorf.	Voerde (Ndrh.)	15/1/1945	Pneumonia	22/1945
86	Firsowa, Larissa.	21/12/1943 Essen.	Voerde (Ndrh.)	1/2/1945	Killed in enemy air raid.	72/1945
87	Lenjuek, Martha.	30/11/1944 Essen.	Voerde (Ndrh.)	1/2/1945	Killed in enemy air raid.	73/1945
88	Solotowa, Lidija.	3/10/1944Dinslaken.	Voerde (Ndrh.)	12/1/1945	Pneumonia	18/1945

[Extracts from death reports numbered 11 through 83 deleted from this printing.]

[Signed] Vowinkel

2. EXTRACTS FROM TESTIMONY OF PROSECUTION WITNESS ERNST WIRTZ[1]

DIRECT EXAMINATION

MR. MANDELLAUB: Will you kindly tell the Court your full name?

WITNESS WIRTZ: Ernst Wirtz.

Q. You live where?

A. Kulmbach, Fischergasse 18.

Q. Are you married?

A. Yes.

Q. When did you join the firm of Krupp?

A. In June 1938.

Q. In June 1938 you joined the firm of Krupp?

A. Yes.

Q. What was your position when you joined them?

A. As an unskilled laborer.

Q. When were you appointed as supervisor of foreign workers?

A. In October or November 1942.

Q. Were you at that time employed at Krawa [Krupp's motor vehicle department]?

A. Yes.

Q. The Denazification Tribunal of the County District of Kulmbach sentenced you to 8 years of labor camp because of the mistreatment of foreign workers and eastern workers in Essen, Mulhouse, and Kulmbach?

A. Yes.[2]

Q. Have you had any previous conviction because of assault and battery?

A. No.

Q. Did you at any time have any proceedings against you because of acts of violence?

A. No.

Q. Do you drink?

A. No.

Q. Do you ill-treat any of your children?

A. No.

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[1] Complete testimony is recorded in the mimeographed transcript, 18 February 1948, pp. 4307–4347. Further extracts from Wirtz' testimony are reproduced in section VIII G 2.

[2] An extract from the verdict and opinion of the Denazification Board is reproduced in section VIII G 2.

Q. Were any criminal proceedings ever started against you?

A. No.

Q. Mr. Witness, who appointed you as camp leader for Krupp?

A. The plant manager, Mr. Balz.

Q. The plant manager of Krawa?

A. Yes.

Q. Did Mr. Balz know you?

A. I don't think he did.

Q. He didn't know you personally?

A. That's right, he didn't know me personally.

* * * * * * *

Q. Where were you in January 1945?

A. In January 1945, I was in Kulmbach in Oberfranken.

Q. What was the order that Director Hupe gave you in Kulmbach regarding the transport of eastern workers from Voerde?

A. In January 1945, I had to go to Essen—the beginning of January—and I had to pick up a consignment of eastern workers. In Essen I was told by Mr. Dollwein that I had to go to Voerde in order to set up the transport of eastern workers.

Q. What was in Voerde?

A. In Voerde we had a former camp of the Organization Todt.

Q. To whom was the camp subordinated, when you, in January 1945, visited this camp?

A. Camp commander Scheider.

Q. Was this camp leader Scheider a Krupp man?

A. Yes.

Q. Under whom were all the camps for foreign workers?

A. As far as I know, Mr. Kupke was responsible for them.

Q. You then went to Voerde?

A. Yes.

Q. Is Voerde situated near Wesel?

A. Yes.

Q. That is near the Dutch border?

A. Yes, on the Rhine.

Q. Was it a large camp?

A. Yes.

Q. How many people were in this camp?

A. I assume about 4,000.

Q. Were these men and women?

A. Mixed—men, women, and children.

Q. From among these women and children did you pick the people for Kulmbach?

A. Yes.

Q. What did you see in the barracks in which the children lived?

A. The children were undernourished. There was no child at all whose arms or hands were thicker than my thumb.

Q. How old were those children?

A. From babies up to the age of 2 years.

Q. Were these the children of eastern workers?

A. Yes, they had been born in the camp.

Q. How were these babies housed in the Voerde camp when you saw them?

A. In sort of prison bunks. They had paillasses with rubber sheets, and the children were there quite naked.

Q. Could you see definite signs of undernourishment in these children?

A. Yes; many of them had swollen heads.

JUDGE DALY, Presiding: Excuse me, I don't know that I understood the witness. Did he say that the children born to eastern workers in the camps had neither arms nor hands?

MR. MANDELLAUB: No, Your Honors, he said they had arms and legs not thicker than his thumb.

JUDGE ANDERSON: Let me ask a question. I am not clear about this locality he is speaking about now.

MR. MANDELLAUB: Yes, Your Honor.

Mr. Witness, can you show the judge on this map where Voerde is situated?

JUDGE ANDERSON: How do you spell that word?

MR. MANDELLAUB: V-o-e-r-d-e. Your Honor, if you permit, I can show you this on the map.

JUDGE ANDERSON: Well, if I could just get the name.

MR. MANDELLAUB: It's north of Duisburg, northwest of Essen. It's not marked on the map. I can only show you the approximate location.

JUDGE ANDERSON: Is it a camp maintained by Krupp?

MR. MANDELLAUB: Yes, Your Honor. It was a camp which formerly was administered by the Organization Todt, but was taken over by Krupp at a later date. I could have the witness answer that question. He knows the answer.

JUDGE ANDERSON: Well, that is all right. I think he said that once.

MR. MANDELLAUB: Yes, he referred to it shortly.

Mr. Witness, were you surprised about this pitiable state of the children?

WITNESS WIRTZ: Yes.

Q. What did you tell the camp leader?

A. I told the girls in charge of the children—I asked them how it came about that these children were so undernourished, and I was told that these children had very little to eat.

Q. Were these female eastern workers?

A. Yes.

Q. And they told you that these children didn't get enough food?

A. Yes.

Q. Did these female eastern workers also tell you how many children died every day?

A. Yes. Fifty or sixty children died every day, and as many were born every day, because there was a constant influx of eastern female workers with children.

Q. You said 50 to 60 children died every day?

A. Yes.

Q. And there was a steady influx of new ones?

A. Yes.

Q. Were these eastern female workers who had children married for the greater part?

A. Yes.

Q. What happened to the children of the female eastern workers—did they tell you what happened with the children who died?

A. I asked the interpreter to ask them how it came about that so many children died, and if the children were buried; and the interpreter told me the children were cremated inside the camp.

Q. Did he also say the children were burned while alive?

A. No.

Q. Do you think that it is possible that this has happened?

A. I don't think so.

Q. What was the food like, Mr. Wirtz, which you got in the camp?

A. It was very good. I was surprised that we got such good food.

Q. Now you were especially well fed in this camp?

A. Yes.

Q. The food you got in Voerde was plentiful?

A. Yes, plentiful and better than at Mulhouse.

Q. Better than Mulhouse, and at the same time you could see that the children of these eastern female workers showed extraordinary signs of undernourishment?

A. Yes.

Q. Did you tell the camp leader something about your experiences?

A. Yes.

Q. What did he say?

A. He told me that he didn't get enough food from the main administration.

Q. What did he mean by main administration?

A. That was the top camp administration.

Q. Who was that?

A. Mr. Kupke; as far as I know it was Mr. Kupke.

Q. He told you that he didn't get enough food for the children?

A. Yes.

Q. Did he tell you that he had enough food for himself?

A. He didn't tell me anything about that.

Q. But could you see that?

A. I could ascertain that.

Q. Do you know how long—do you know during which time, how long a time it was during which Krupp administered the camp at Voerde?

A. I can't tell you in detail, but I assume since 1943.

Q. Since 1943?

A. Yes.

Q. But if you say that the female workers told you 50 or 60 children died every day, you didn't mean that this number of children died over the whole period?

A. No.

Q. This only referred to a short period?

A. Yes.

Q. Could you give us an estimate concerning which period approximately?

A. There was January 1945—it may have been for 1 year.

Q. At the most for 1 year?

A. Yes.

Q. But you don't know it exactly?

A. No.

Q. Can you tell the Court, can you explain to the Court, what Krupp's policy was if a female eastern worker while working for Krupp bore a child? What happened with this child?

A. The children were taken away from the eastern female workers.

DR. WECKER: Now, may I say something. Your Honors, I don't know if I have understood that this witness is to testify something about Krupp policy. I don't know whether this is admissible. That is, after all, an expression of opinion, quite apart from the fact that the witness doesn't seem to be competent to me to testify something about Krupp policy.

JUDGE DALY, Presiding: Well, suppose you first ask him if he knows what the Krupp policy was. If he doesn't, that ends it;

and if he does, then counsel for the defense can go into the basis of it on cross-examination.

MR. MANDELLAUB: I shall rephrase the question in a way I think will be acceptable to the Court. I shall restate that question.

Witness, do you know what happened to the children of a female worker who worked for Krupp?

WITNESS WIRTZ: As soon as the eastern worker had given birth to the child, she was allowed 6 weeks; and after these 6 weeks, she went back to work; and the child was kept in the camp so that the female worker could go to work again. She saw that child only after work.

Q. Was this child separated from the mother?

A. Yes.

* * * * * * *

Q. Mr. Witness, you have told the Court from your experiences the conditions during the period when you were camp leader or rather deputy camp leader at Krupp. Did you act as the private person Wirtz when you beat people or as the deputy camp leader of Krupp whose function was to beat people?

A. I was asked by the plant management to beat people. On my own initiative I wouldn't have beaten people.

Q. You can state here under oath that you personally on your own initiative would not have committed acts of brutality?

A. Yes.

Q. If you hadn't been asked by the plant management to do this?

A. Yes.

MR. MANDELLAUB: I have no further questions, Your Honor.

CROSS-EXAMINATION

* * * * * * *

DR. STUEBINGER (assistant counsel for defendant Kupke): How could you find in the Voerde camp that the children were undernourished?

WITNESS WIRTZ: Because I could see them with my own eyes.

Q. Did you see them naked?

A. Yes.

Q. Perhaps you can tell the Tribunal what special observations you made, because when you say they were undernourished that was a conclusion which you drew because of your observations. Please tell us of your observation?

JUDGE DALY, Presiding: Well, Doctor, had not he already said that their legs and arms were the size of his thumb. He has already given some definite description, hasn't he?

DR. STUEBINGER: Did you discuss this condition with the camp leader?

WITNESS WIRTZ: Yes.

Q. What did he answer?

A. That he did not receive sufficient food for that. He could only distribute what he had.

Q. You also said that female eastern workers who had been looking after the children told you that the children received too little food?

A. Yes, that is right.

Q. Did your answer also apply to babies?

A. Most of them were babies and small infants.

Q. How do you explain the fact that they were undernourished because babies are usually fed by their mothers?

A. No, not in the camp. They were fed by bottles with things like gruel.

Q. Do you know about the rations which camp Voerde received?

A. No. All I knew was that in my camp in Mulhouse I received the same rations as a young German mother, and I think the same should have applied to Essen.

* * * * * * *

Q. Did you know that there was a diphtheria epidemic in camp Voerde?

A. No. I know that during the period I was there, there was no epidemic.

* * * * * * *

Q. Do you know anything about the fact that in Voerde a doctor was there for the constant care also of these infants, too?

A. No. I know nothing about that.

Q. Do you know that particularly for the care of small infants a fully trained German nurse was available?

A. No. All the people I met in the hospital were workers from the Ukraine, the nurses, orderlies, and doctors, who looked after the babies.

Q. So you know nothing of the fact that a German fully trained nurse was particularly appointed for that job?

A. No.

Q. Do you know that beyond this there were also a number of girls from the East, from the Ukraine, etc., who were employed as additional laborers for looking after the children?

A. No. I didn't know that.

* * * * * * *

Q. Witness, you said that there were 4,000 inmates in that camp?

A. Yes, I was told so.

Q. Out of those, there were about 2,000 women, is that correct?

A. That might be correct.

Q. Of those, 50 babies died daily?

A. Well, that I was told, they were supposed to have died.

Q. You say they were supposed to have died?

A. Yes, that is what I said.

Q. That would mean that 1,500 children died every month?

A. I don't know whether it always happened regularly, but I was told by the female eastern workers that daily about 50 children died, but I don't know for how long that went on.

Q. It would also mean that 18,250 children died per year?

MR. MANDELLAUB: I think defense counsel is drawing conclusions and trying to get the witness to accept them.

JUDGE DALY, Presiding: The witness has stated, Doctor, that he didn't know how long that death rate continued.

DR. WECKER: Witness, you said the babies were separated from their mother, is that correct?

WITNESS WIRTZ: Yes.

Q. Did the German female workers when they had to go to work, did they like Japanese women, carry their children with them?

A. No, they didn't.

Q. So they only saw their babies in the evening?

A. Yes.

* * * * * * *

3. AFFIDAVIT OF DEFENDANT KUPKE

TRANSLATION OF DOCUMENT NIK–10766
PROSECUTION EXHIBIT 920

AFFIDAVIT OF THE DEFENDANT KUPKE, 27 JUNE 1947, CONCERNING THE ESTABLISHMENT AND ADMINISTRATION OF THE VOERDE CHILDREN'S CAMP

I, Hans Kupke, Nuernberg, after having been duly warned that I render myself liable to punishment by making a false statement, herewith declare the following on oath, of my own free will and without coercion:

With reference to the children's camp in Voerde, I have to make the following statement:

When female eastern workers employed at Krupp's were expecting a child the confinement took place in one of the hospitals of Krupp. One part of the hospital was fenced off, there the women were delivered. After a certain time, it might have been

3 or perhaps 6 weeks, the women resumed work, while the children remained in the hospital. The children were under the care and treatment of Dr. Seynsche. When the number of children increased further and the space available proved inadequate, I consented, after much persuasion, to a camp being set aside to accommodate these children. Eventually we fixed up a part of the camp for foreigners at Voerde-West, which is situated about 50–60 km. from Essen, to house these children. At that time about 120 children were concerned. I do not remember the exact number. The children were taken care of by a woman who was cook and all-round help at the same time, and who did her best for the children. She had at her disposal quite a number of female eastern workers.

The medical care was in the hands of Dr. Jaeger for all camps, and he had appointed a doctor, an eastern worker, specially for the children's camp. Some of the children were rather weak when they were transferred from the hospital. I had, however, undertaken to admit to the camp healthy children only.

Today, on the occasion of my interrogation, death certificates of the camp at Voerde-West have been shown to me. According to these, 46 of the children stationed there died between October 1944 and February 1945, 23 of them owing to general weakness. I admit that this is due to a measure of maladministration. These death certificates were sent to Mr. Pless of my office. I did not institute an inquiry into the matter. The people responsible were, on the one hand, Mr. Scheider, who was the camp leader. I personally cannot accept any responsibility, but I wish to emphasize that in my opinion Dr. Jaeger, as chief camp physician, should also be held responsible. Of course I fully realize that this is a matter which should have been investigated, and I can only emphasize the fact that I was not informed of it.

At the beginning of 1945, after continual inquiries on my part concerning the question of accommodation for the people who were not fit for work, the labor office, or Dr. Lehmann, informed me that together with these people the children were to be moved to Thuringia. The transport was arranged by the labor office, which also supplied the escort for the transport. The mothers of these children who were in our employment in Essen were informed of this move before it took place. I know that some of the mothers worked as helpers in the children's camp; they of course, went with the transport; I do not, however, think it was possible to inform the other mothers, many of whom had also been transferred from Essen with their plant. That is all I can state here on the subject of these children of eastern workers.

I have carefully read each of the three pages of this affidavit, have made the necessary alterations in my own handwriting, and have countersigned them with my own initials, and I herewith declare on oath that to the best of my knowledge and belief I have stated the absolute truth in this affidavit.

[Signed] HANS KUPKE

4. DEFENSE TESTIMONY AND AFFIDAVIT

EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS ANNA DOERING BEFORE COMMISSION I[1]

DIRECT EXAMINATION

DR. BEHRINGER (counsel for the defendant Kupke): Witness, will you please give us your full name?

WITNESS DOERING: Anna Doering.

Q. When were you born?

A. On the 25th of April 1910.

Q. Where do you live?

A. Voerde, in the lower Rhine.

Q. What is your address?

A. 186 Hindenburgstrasse.

* * * * * * *

Q. Now, with regard to the children's ward, Voerde, the prosecution in this case called one witness Wirtz onto the witness stand. He was examined on 18 February 1948, and I herewith ask you, Witness, have you read the transcripts of this particular session?[2]

A. Yes.

Q. I have to put a few questions to the witness concerning the examination of this witness Wirtz. What is your comment on Wirtz' statement that the children in this ward were undernourished and that there were no children who had thick legs or arms?

A. That is not correct. The children were not undernourished. We had enough foodstuffs there, also it is not known to me that there were children who had very thin arms and legs.

Q. Do you want to say that the children looked absolutely normal?

A. Yes.

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[1] Complete testimony is recorded in the mimeographed transcript, 31 May 1948, pp. 10677–10700.

[2] Extracts from the testimony of Wirtz are reproduced in section VIII E 2.

903432—51——72

Q. Is it correct, as the witness Wirtz says, that the children were lying on prison benches?

A. No.

Q. What kind of beds did they have?

A. They had two-part mattresses. The beds were partitioned into two parts, and there were two children in one bed. They had rubber sheets and proper linen and everything that is necessary for a bed.

Q. The witness Wirtz says that the children had to lie naked on the prison benches. Now, what do you know about that?

A. That is not correct.

Q. Were they properly dressed—did they have linen and underclothes?

A. Yes.

Q. Were there children who had nothing on?

A. No. It never happened that they had nothing on at all. They had at least little shirts and little jackets and after all, a child has to have freedom of movement and because many had sore patches, we left their legs free so that the air would get at the soreness.

Q. Were the rooms heated when the children were left uncovered?

A. Yes.

Q. The witness Wirtz says that the children were hydrocephalic?

A. I have not seen a child with hydrocephalus, I don't know what it looks like, as a matter of fact.

* * * * * * *

Q. Fifty to sixty children are supposed to have died daily. What do you know about that?

A. I know nothing about that.

Q. Furthermore, the dead children are supposed to have been cremated. What is your comment on that?

A. No child was cremated. They were always put in nice coffins and got a proper funeral.

* * * * * * *

Q. Do you know Mr. Wirtz?

A. No.

Q. But he says that in January 1945 he was in this children's ward?

A. I do not remember ever having seen a gentleman called Wirtz at that place. Since I was one of the matrons of that station, I should have seen him.

* * * * * * *

MR. GOLDENBERG: When did you first go to work at the children's camp at Voerde?

WITNESS DOERING: 1944 in June or July. I could not say exactly.

Q. What did you do before that?

A. I am a housewife.

Q. Are you a trained nurse?

A. No.

* * * * * * *

Q. How many children were at the camp when you arrived?

A. That also I do not know.

Q. Did you see the children every day?

A. Yes, I did.

Q. Approximately how many children were there when you came?

A. I would say according to my estimate there were between 60 and 70.

Q. Do you remember any transports arriving from Essen after your arrival?

A. Yes.

Q. Do you remember a transport in August 1944?

A. I was in charge of one myself—at least, I was one of the people who took charge of one—but I do not remember the date.

Q. How many children were in that transport?

A. I don't know.

Q. Approximately how many children were in that transport?

A. I couldn't tell you how many children arrived then.

Q. Do you know of a transport which arrived subsequent to that time in about October 1944?

A. I can remember one transport where children arrived in very bad condition, but how many there were, I do not remember.

Q. Do you know when that was?

A. No.

Q. What was the condition of the children in the transport that you helped bring in?

A. There is nothing much to tell you about this transport. They were all well and healthy as far as I remember.

Q. And you don't know when it arrived?

A. I don't.

Q. Did these children leave camp Voerde well and healthy?

A. As far as I know, the children left Voerde at the end of February. I wasn't present that day unfortunately, and, therefore, I cannot make any statements concerning it.

Q. Where were you then?

A. At home.

Q. Had you left camp Voerde?

A. No, I hadn't. There were extensive bomb attacks. One air raid alarm followed the other so I could not go from my apartment to the ward.

Q. How many children arrived at camp Voerde from the time you started working there until you ceased working there?

A. I don't know.

Q. Do you know approximately how many?

A. I don't.

Q. Would you say there were 200 who arrived?

A. I couldn't give you any information about how many children went through the ward.

Q. Do you know what the maximum was, that was there at the same time?

A. No.

Q. Can you give an estimate?

A. No.

Q. You remember a lot of details about the treatment of these children but you can't remember any details about any question I ask you. Can you explain that?

A. No, I do not know how many children there were, and I cannot give you any information as to how many there were.

Q. How many Ukrainian women were employed to supervise these children?

A. We had about twenty women who were employed there.

Q. And how many rooms were there in which the children were kept?

A. Five.

Q. There were five rooms?

A. Yes.

Q. And twenty women?

A. Yes.

Q. And how many children were kept in each room?

A. Sixteen, on some occasions there were seventeen.

Q. Were the rooms full?

A. No, the beds were not always occupied.

Q. So can you tell me now what the maximum number at this children's camp could accommodate?

A. No, because currently a few of them died, and there were also a number of new arrivals but I never worried about it because I had nothing to do with that.

Q. How many were alive at any one date; can you remember that?

A. No.

Q. Do you know how many died from September to January 1945, from September 1944 to January 1945?

A. No, I don't know.

Q. Would you say that a death rate of 85 children would be a high one?

A. As far as I remember there could never have been that many deaths; that is quite impossible.

Q. Do you know there are death certificates in evidence for at least that many?

A. I do not know.

Q. You say there was one transport where the children didn't look very well. What was wrong with them?

A. They were very sore.

Q. Well, suppose you amplify on that statement a little.

A. Their skin was very sore.

Q. Is that the only thing wrong with them?

A. That is right, yes; that is all.

* * * * * * *

Q. Do you know what the cause of death of most of these children was supposed to be?

A. No, I cannot find an explanation for that and never could.

Q. What did the doctor tell you?

A. I did not discuss this with the physician.

Q. Did you discuss it with the Ukrainian physician?

A. Yes, I spoke to Dr. Kolesnik, the Ukrainian physician, on many occasions. He thought it was probably because of tuberculosis.

Q. Did you also talk about diphtheria?

A. No, Dr. Jaeger mentioned that. There were cases of diphtheria at the time.

* * * * * * *

Q. Did you ever hear of children dying of general weakness?

A. No.

Q. Do you know that a large number of the reports made out by this Ukrainian doctor attributed death to general weakness?

A. No.

Q. Do you know what scurvy is?

A. No.

Q. Do you know what causes scurvy?

A. No, I don't know that either.

Q. Do you know what vitamins are?

A. Yes.

Q. Do you know the importance of vitamins to children's health?

A. Yes. Especially milk, fruit, and babies' cereals.

Q. Do you know that scurvy is caused by a lack of vitamins?

A. No.

Q. Do you know what rickets is?

A. No.

Q. Do you know that rickets is a disease caused by lack of vitamins?

A. No.

Q. Do you know of any deaths by rickets at camp Voerde?

A. No.

* * * * * * *

Q. Did you select the food to make it suitable for these children, these very young children?

A. Yes. The food which was given to me, I prepared according to ages.

Q. Have you studied dietetics, the proper food for children?

A. No, but I am a mother myself, I have raised a child myself, and I have been in charge of many children. I have had positions in families with children.

Q. How many children?

A. I couldn't say how many. I held positions with families of two or three children, and sometimes one.

Q. Did you hold positions which involved the lives of 70 or 80 children before this job in Voerde?

A. No.

Q. Do you think you are qualified to provide the food and to select the food for that many children?

A. In any case, the food was there, and I was in charge of it. It was always sufficient.

Q. What food was this? Was this the official ration?

A. Yes. The official quota at our disposal. Also I often received more than I should have.

* * * * * * *

Q. Did the children from this transport which looked in bad condition because of sores recover and become healthy looking the same as the other children?

A. As far as I remember, yes.

Q. Well, can you explain to me what all the deaths at the children's camp at Voerde were caused by?

A. No, I can't. I cannot find an explanation for it.

Q. Do you know that very many children did die at Voerde?

A. Yes, children died, but as to how many, I don't know.

Q. Well, did you get to know any of these children personally. You as a mother who would be interested in children?

A. How am I to understand that?

Q. Well, did you get to know any particular children well, as individuals, as individual persons?

A. We were nice and kind to each child.

* * * * * * *

Q. Did the mothers of the other children visit the children's camp?

A. Yes, some mothers came to visit on Sundays, for instance.

Q. How many, approximately?

A. Sometimes 15, and as many as 16 occasionally, on Sundays.

Q. They came to visit on Sundays. Do you know if they came from Essen?

A. That I do not know, because I did not talk to the mothers.

Q. These mothers lived in the camp Voerde itself?

A. The mothers whose children were in my ward, yes; in the children's ward.

Q. You mean these four mothers?

A. Yes.

Q. What about the other mothers?

A. They came from somewhere else; from other camps.

MR. GOLDENBERG: No further questions.

REDIRECT EXAMINATION

DR. BEHRINGER: A few questions in redirect.

Witness, do you remember that many children died in one or a few months?

WITNESS DOERING: I knew that children did die, but how many—

Q. I don't think you understood my question. Do you remember that in 1 or perhaps 2 months more children died? I am not asking you the figure, but I am asking you quite generally.

A. Yes, a few of them died, but I don't know how many.

Q. I don't ask you the number, Witness; did the mortality rate increase when the diphtheria started?

A. Yes, a number of them died.

Q. Do you remember whether the mortality rate decreased afterwards, Witness; that the monthly mortality decreased?

A. I cannot remember that, no.

* * * * * * *

Q. Now the question of food. Would you be able to tell us today what different kinds of food you received for the children?

A. Yes.

Q. Then please tell us, as far as you remember.

A. Semolina pudding powder, Mondamin, rice, noodles, all of these kinds of foods.

Q. Did you also get fruits?

A. Yes.

Q. Do you remember whether fruit was included in the rations which were to be given to the children, according to the regulations?

A. No, I don't know.

Q. Did the children also receive milk?

A. Yes, and butter was also included.

Q. You say that fats were also included in the ration?

A. Yes, butter.

Q. Did they also receive bread?

A. Yes, white bread, and we also had dark bread for the bigger children; we also had zwieback.

Q. Zwieback, white bread; who received that white bread?

A. The smaller children.

Q. The smaller children, and butter and milk?

A. Yes.

Q. Was it whole milk?

A. Yes.

Q. Did they also receive vegetables?

A. Yes.

Q. Now taking into consideration that these various foodstuffs were available could you change the food; could you have a variety of menus?

A. Yes.

Q. Did you receive any special additional foods?

A. You mean cereals, or what?

Q. Well, I mean special products containing vitamins, or vitamin preparations, for instance Vigantol.

A. Do you mean emulsion cod liver oil; that kind of thing?

Q. Yes. You received such things also?

A. Yes.

DR. BEHRINGER: Thank you. I have no further questions.

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TRANSLATION OF KUPKE DOCUMENT 284
DEFENSE EXHIBIT 2103

AFFIDAVIT OF CAMP MANAGER JOHANN WIENEN, 27 APRIL 1948, CONCERNING CONDITIONS IN THE VOERDE CHILDREN'S CAMP*

I, Johann Wienen, of Muelheim/Ruhr-Broich, Kassenberg 97, am aware of the fact that I render myself liable to punishment

* Wienen was not called for cross-examination concerning this affidavit.

if I make a false affidavit. I hereby declare in lieu of oath that my deposition is true, and that it is made in order to be submitted as evidence to the Military Tribunal in the Palace of Justice, Nuernberg.

In 1944 I was appointed manager of the camp Voerde-West. At that time, a children's ward for children of eastern workers was just being established in that camp. I cooperated in the fitting and completion of that camp.

It is possible that when I took over, approximately 20 children had already been accommodated in a hall reserved for children.

Great pains were taken to furnish the children's ward with all necessary fittings, so that the place became a model installation. The rooms in which the children—two in each room—were housed, were nice, large and bright; the children were given tidy beds with sheets and covers; the walls were painted and the rooms well furnished altogether. The kitchen was purposely arranged in a way that special diet suitable for children could be well prepared. In particular, there was a special installation supplying hot water at all times. Milk bottles and other crockery for children such as plates, dishes, cups (partly made of earthenware) were kept in special cupboards. There was a special storeroom for the storing of food. We even provided some children's new underwear. Altogether, the children's ward was furnished right to the end with all necessities for the proper care of small children; new objects could be obtained as replacements throughout. A special seamstress was employed to mend the children's underwear.

The first manageress of the children's ward was Miss Howa. When she broke her leg during an air raid, Mrs. Makowski, who had up to that time been in charge of the kitchen, took over. She died in December 1944 from diphtheria; as far as I know, she had been infected by one of the children. She was replaced by Mrs. Doering* who had been in charge of the kitchen before. All German women employed in the children's ward were particularly fond of children, and I am sure that they did their very best for them.

For the care of the children, Ukrainian women and/or female eastern workers were appointed; most of them volunteered for this job. Some of them were students of medicine. In addition, several mothers of babies accommodated in the children's ward were employed as nurses.

I supervised the entire staff of the children's ward throughout. I never observed any indications that the foreign nursing staff did not perform their duties properly.

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* Extracts from Mrs. Anna Doering's testimony are reproduced immediately above.

The meals for the children were prepared in the kitchen of the ward. Meals were prepared according to the types of diet suitable for children from the ages of a few months to 2 years. We requisitioned the foodstuffs from the department "camp food" of the central camp administration. In the first instance, we received all items allocated to small children according to the official rationing schedule, including milk, white bread and special infants' food. In addition, and with the support of the central camp administration and the cooperative stores of the Krupp firm, we managed throughout to get hold of extra foodstuffs for the kitchen. Meals were prepared cleanly and carefully. At the appropriate times the infants received their milk, their pap and their other meals. Frequently, they received fruit. Medical care of the children's ward was in the hands of the camp physician Dr. Kolesnik at all times; he lived in the building of the children's home. In addition, Dr. Jaeger, the chief camp physician, regularly inspected and examined the children's home.

During the summer 1944 more children arrived. I remember that two transports, I believe of 20 to 25 children each, arrived from Essen, and that we noticed particularly that these children were in bad physical state. They seemed to be sick, and we did not believe that they would live. I inspected these children practically every day, and found that both the German and the Russian staff of the children's home did their best to improve the state of health of these children.

Soon after this, an epidemic disease broke out, and during the next weeks a considerable number of children fell victims to it. As far as I remember, scarlet fever broke out first, then diphtheria, and other diseases. Both Dr. Kolesnik and Dr. Jaeger were informed immediately. Their instructions were followed throughout. The sick children were isolated. They received the necessary remedies which were supplied currently. Every night, one or two nurses were detailed for night nursing and stayed in the children's rooms. I frequently asked Dr. Kolesnik for the cause of the deaths. His German was but halting. He told me that most of the children were suffering from tuberculosis as it was and hardly able to live [lebensfaehig]; he felt that not much could be done. I had informed Dr. Jaeger, too, when the two transports of children in a bad physical state had arrived; I had called his attention to this particularly. He implied that he did not understand why these children had been assigned to the home. There was a standing rule issued by Dr. Jaeger to the effect that every child was first to be examined by him before it was admitted. In the case of

those two transports, this had not been done, although I had notified him immediately of these transports.

Dr. Jaeger did not discuss the reasons for the ensuing deaths with me.

As I was bound to do, I sent current reports on these events to the central camp administration. Mr. Kupke visited the Voerde camp and the children's home several times. When he saw the children belonging to those two transports, he said that these children should not have been admitted, as it was evident that they were sick.

When the deaths ensued, he asked me repeatedly whether Dr. Jaeger had visited the home and examined the children. My answer was in the affirmative.

Mr. Kupke showed sincere sympathy with the sick and dying children. At every visit, he urged me and the nursing staff particularly to do whatever we were able to.

For the sick children I always picked out the best and most experienced nurses, in order to ensure that the children were nursed as well as possible. As a matter of fact, we eventually succeeded in reducing the number of deaths and improving the physical state of the children from week to week. I expressly state that neither Dr. Kolesnik, nor Dr. Jaeger, nor any other persons, ever implied by a single word that the sickness and the deaths of the children in Voerde had been caused by insufficient accommodation, insufficient food, or otherwise by insufficient care for the children.

When the first cases of diphtheria occurred in the fall of 1944, Dr. Jaeger at once secured the necessary serum; I believe he got it in the district hospital in Dinslaken. At the same time, several other physicians and nurses visited the children's home and inspected it closely, among them, I believe, the district medical officer of Dinslaken. In my capacity as camp manager, I attended this inspection, and so did Dr. Jaeger. This commission then told me that the installations and management of the children's ward could be considered a model. At this occasion, too, not one word was said which implied that the epidemics had been caused by any negligence from the part of the management of the children's ward.

After this medical inspection, the children's ward was inspected by a delegate of the German Labor Front whose name was Foerst I believe. I had to give him and his assistant a comprehensive report. In conclusion, he stated that the children's ward was a model installation.

Essen, 27 April 1948

[Signed] JOHANN WIENEN

F. Procurement and Treatment of Female Concentration Camp Inmates at the Krupp Plants in Essen

I. CONTEMPORANEOUS DOCUMENTS

TRANSLATION OF DOCUMENT NIK–7440
PROSECUTION EXHIBIT 1018

FILE NOTE SIGNED BY DEFENDANT IHN, 6 JULY 1944, CONCERNING A CONFERENCE ATTENDED BY DEFENDANTS VON BUELOW AND KUPKE, ON THE ALLOCATION OF CONCENTRATION CAMP INMATES AND CONVICTS

Personnel Matters, 6 July 1944
Tr./Fue.

File reference No. 2

Subject: Allocation of prisoners, etc.

Basis for report: Conference at my office on the afternoon of 5 July

The following persons were present:
v. Buelow, Guenther, Graefe, Hanko, Hintz, Holve, Kraus, Kupke, Trockel, and Vorwerk.

The situation is as follows:

1. *2000 concentration camp inmates*—Standartenfuehrer of the SS, Pister, commander of concentration camp Buchenwald near Weimar, with which we have to deal, was here on the afternoon of the 4th of this month. He had the order to allocate 2,000 women to us. We convinced him, however, that the allocation to us of females is hardly possible, and he promised us the allocation of 2,000 Jewish Hungarian prisoners (men). These are mostly unskilled workers. However, Mr. Pister wants to include as many skilled workers as possible. We came to an agreement with him on the following points:

a. Krupp is to investigate at once where prisoners can be allocated on a large scale. Employment of individuals or of small groups will not be approved. If only for the sake of supervision and for security reasons the employment of the largest possible complete groups in one workshop should be attempted.

b. We pay 4 RM per day for each prisoner, including all social welfare dues such as for sickness and accident insurance, etc.

c. The SS provides the guards in the camp and the plant, and also the administrative staff physician and medical orderly.

d. We provide one blanket in the summer and two in the winter; also, a set of eating utensils and a drinking cup for each guard and prisoner.

e. According to an agreement between Mr. Pister and Mr. Kupke, the main administration for workers' camps assumes the responsibility of feeding the prisoners for a payment of RM 0.70 per day for each prisoner, and RM 1.20 for each guard.

f. Mr. Pister found the former camp for Italian military internees, Humboldtstrasse South, to be suitable. Accommodation can be provided for 2,000 prisoners altogether by using triple-deck bunks, instead of the double-deck bunks used heretofore. A guard tower of the simplest form should be erected at each of the four corners of the camp for security reasons. A hut of the former camp Humboldtstrasse North and a part of the air raid trench of this camp must be incorporated into the south camp. To this end the barbed wire must be rearranged accordingly. Other changes are not necessary in the camp.

In the opinion of Mr. Kupke the camp can be occupied in about 14 days if by that time camp Dorsten can take over the Italian military internees, and if the construction alterations in camp Humboldtstrasse South are made.

g. As the way from camp Humboldtstrasse South to the plant is very long, Standartenfuehrer Pister stipulated that the prisoners be transported by streetcar to and from their place of work, since they are very poorly provided with footwear.

h. Krupp will provide suits of working clothes for particularly dirty work.

i. While we are clarifying the question of the allocation of the prisoners, Mr. Pister will obtain clarification regarding the allocation of the 2,000 men who are to be made available. He requests a telephone call as soon as we have come to that point. He will then come to Essen to inspect the working quarters, and to arrange the details concerning the number of guard personnel etc.

2. *500 concentration camp prisoners* (women) who are to be allocated to us by the Main Committee for Weapons. It is intended to take these prisoners, as far as possible, from the 2,000 prisoners mentioned under [paragraph] 1.

3. *500 convicts requested by Mr. A.v. Bohlen from the office of District Attorney Joel, Hamm*—District Attorney Joel has offered the prospect of several hundred convicts. A conference with him is to take place in the week of 9–15 of this month. Messrs. v. Buelow and Kupke of the Cast Steel Works are to handle the negotiations.

The locomotive and car construction can take 200–250 men at first and an additional 250–300 men in perhaps 3 months.

Accommodation for the first contingent is possible in camp Neerfeld after a slight extension of the camp area. Mr. Kupke and Mr. Holve are discussing the particulars. Later the entire number of 500 men intended for locomotive and car construction are to be accommodated in camp Weidkamp.

4. *440 convicts* (prisoners from the penitentiary at Koenigsberg)—Negotiations with reference to the allocation of these people will be conducted in the next few days with Regierungsrat Peschke, director of the Essen detention prison.

Accommodation probably possible at Josef-Hommer-Weg [camp]. Of prime importance is the question of where the concentration camp prisoners and the convicts are to be assigned in Cast Steel Works. Mr. Hanko, as his principle duty, will take over this question, in collaboration with Mr. Hintz, Liaison Office for Interplant Labor Allocation.

In the case of the convicts the chief difficulty is that we have to supply the guards. Messrs. v. Buelow, Kupke, and Hanko will examine this question.

* * * * * * *

Mr. Vorwerk. F.A.H. [Friedrich-Alfred-Huette] will study the question of whether the F.A.H. can receive an allocation of concentration camp inmates and convicts. The Cast Steel Works will, if necessary, try to help in solving this problem. Messrs. Guenther, Graefe and Geisenheim, are negotiating with the concentration camps of their district. Although the discussions have so far had negative results, Geisenheim will continue, from there, to study the question. Not until everything else has failed will the Cast Steel Works offer its aid, if necessary. According to information from Mr. Holve, Dr. Poetter's negotiations with the Organization Todt with reference to the exchange of OT camps near the Cast Steel Works have had a negative result.

[Signed] IHN

Distribution: Messrs. A. v. Bohlen, Janssen, Houdremont, E. Mueller, v. Buelow, Guenther and Graefe (Geisenheim), Hanko, Hintz, Holve, Kraus, Kupke, Trockel, and Vorwerk (F.A.H.)

PARTIAL TRANSLATION OF DOCUMENT NIK-9806
PROSECUTION EXHIBIT 1020

EXTRACTS FROM REPORT ON A MEETING OF KRUPP'S SPECIAL LABOR ALLOCATION ENGINEERS HELD ON 19 JULY 1944, DISTRIBUTED TO SEVERAL DEFENDANTS, CONCERNING EMPLOYMENT OF CONCENTRATION CAMP INMATES AND ENCLOSURE EXPLAINING MERIT BADGES

No. 17
Date: 27 July 1944

Fried. Krupp
The Labor Allocation Engineer
Distribution:
A.K.v. Bohlen,
Goerens, Houdremont,
E. Mueller, Janssen,
Ihn, Eberhardt, Rademacher, Girod, Kraus,
all SAI [special labor allocation engineers].

Minutes of the SAI discussion on 19 July 1944

1. Mr. Kraus welcomed Dr. Unteutsch as labor allocation engineer for the entire Krupp concern.

2. *Concentration camp inmates*—Mr. Trockel stated that according to Dr. Lehmann no Hungarian Jews but only Hungarian Jewesses can be brought in. Mr. Trockel visited the Gelsenberg factory where 2,000 Jewesses are working at present. They are mainly doing clean-up work. They live in tents. At present the prisoners are being guarded near Gelsenberg by 100 members of the home guard. Mr. Trockel considers that these women are too weak to do heavy work.

Dr. Unteutsch remarked that the wage scale measures are being carried out in the iron producing plants at present. It would be advantageous if at the same time the various working posts for these women were considered too. Although it is difficult to employ women in heavy industries, we must make use of every opportunity to do so in view of the great labor shortage.

* * * * * * *

Enclosure 2 to the SAI report
Subject: Ability badge for prisoners
Previous actions: Point 1 a to f of the file report of 16 May 1944
Discussion with Mr. Girod

1. Each prisoner receives a badge (see sample) which is to show the quality of his work.

2. The prisoner who works and conducts himself well receives the white badge, group I, and has the following advantages:

a. Better accommodation and treatment in the camp,

b. Supplementary food rations,

c. Additional financial rewards, and

d. Admittance to shows such as the cinema, soccer matches, etc.

3. The worker whose work and conduct are only average receives the blue badge, group II, and receives the normal treatment meted out in the camp and the normal quantity of food. Prisoners of this group only receive additional financial rewards from time to time.

4. The unwilling prisoner whose work or conduct is bad wears the red badge, group III, and is subject to the severest supervision in the plant and in the camp. Deprivation of rights, which, however, may not diminish his physical efficiency, such as forbidding him to receive or send mail and packages, or to smoke, etc., should force the prisoner to work himself up again into group II.

5. All newly arriving prisoners receive the blue badge of group II.

6. Prisoners who from group I are appointed apprentices wear the white badge with the triple green ring (see sample).

7. After the first division of the prisoners into groups by the plant and after approval by the labor allocation officer and the distribution of the badges by the concentration camp the following will prevail:

a. Applications for placement into a higher group will only be accepted by the labor allocation officer Mr. Schwager in writing, with reasons, on Saturdays between 0800 hours and 1300 hours.

b. Applications for placement into a lower group will be accepted daily during office hours.

The reasons for the applications as specified under *a* and *b* must stand the test by the deputy of the labor allocation engineer Mr. Baecker, retraining workshop.

8. Approved applications to point *b* will be immediately transmitted (at first by telephone) to the concentration camp for following-up measures.

9. Approved applications to point *a* will be transmitted Saturday afternoon to the concentration camp. The concentration camp leadership will award the badges for the higher group on the Monday during a roll call of the concentration camp inmates.

TRANSLATION OF DOCUMENT D–238
PROSECUTION EXHIBIT 1019

FILE NOTE OF KRUPP'S PERSONNEL DEPARTMENT, 28 JULY 1944, CONCERNING FURTHER PLANS FOR EMPLOYMENT OF CONCENTRATION CAMP INMATES AFTER DISCUSSIONS WITH SS CAPTAIN SCHWARZ, DIRECTOR OF LABOR ALLOCATION OF BUCHENWALD CONCENTRATION CAMP

[Handwritten]
Mr. Wehlmann
Mr. Kraus u. R.
29 July Secret

Personnel Department, 28 July 1944
Tr./Fue.

[Stamp]
War Economy Office
29 July 1944
No. 1 2369
[Illegible initials]

File Note No. 10

Subject: Assignment of Inmates
Foundation for the report: Visit of the director of labor allocation of the Weimar-Buchenwald concentration camp, SS Captain Schwarz, on 26 July 1944

[Stamp]
1. Taken care of
2. To the files
[Illegible handwriting]

Participants in the visit to the works and camp—Mr. Trockel.

In the subsequent conference, Dr. Lehmann, Holve, and Trockel.*

Mr. Schwarz came on behalf of his commanding officer SS Standartenfuehrer Pister to talk over with us the question of employment of concentration camp inmates. He pointed out that the employment of men could not be reckoned with for a considerable period. Our last request was for 700 women.

While visiting the Humboldtstrasse camp, which we had in mind for the accommodation of concentration camp inmates, Mr. Schwarz thought that this camp was too spacious for the women. He suggested that only five of the southern barracks on the west side of the camp together with a few slit trenches should be wired off to make a proportionately small camp for the proposed number of women which could easily be kept in view.

* Trockel testified as a defense witness concerning Krupp's employment of female concentration camp inmates. Extracts from his testimony appear in section VIII F 4.

903432—51——73

In Rolling Mill No. II, where 300 women are to be employed, it was shown that, after a thorough inspection, led by Mr. Braun, employment here was possible and suitable. Mr. Schwarz asked that a simple wire fence at the most 2 meters high be erected between the pillars to separate the concentration camp inmates from the other foreign workers. Mr. Braun will see that this is carried out.

No special door is needed for the railway entrance, a barrier is sufficient. On the question of safety measures, SS Captain Schwarz was most obliging.

Women can only be employed on the day shift in the electrode construction workshops and then only 50.

An inspection of the springs workshop, under the guidance of Mr. Engerisser, showed that it was not possible to employ the 150 women already applied for, as it is not possible to separate them from the other foreign workers. That is a principle condition for their employment. Mr. Schwarz declared that in spite of the consideration of our wishes he was unable to allow employment here owing to the fact that the workroom could not be closely watched.

[Stamp] To files 201/v

In armor building shop 4, it is also not possible to have a completely separated employment squad. The final result was that at the moment the places ready for employment are: Rolling Mill No. II with 300 women, and electrode construction workshops with 50 women.

As not less than 500 women would be assigned, we agreed that the figure should remain at 500 women in order that the allocation should not be endangered. Furthermore, the SS furnishes 20 administrative workers such as doctors, nurses, cobblers, tailors, etc., so that the figure of 500 women is now raised to 520. The labor allocation engineer must try to find work for the remaining 150 inmates as quickly as possible.

The hall near Rolling Mill No. II which we had in mind for accommodation of the inmates was thought by Mr. Schwarz to be an excellent place. He suggested that the 520 Hungarian Jewesses which we had asked for, should be accommodated here on the first floor and the camp in the Humboldtstrasse be abandoned. According to his experience this should be possible. The ground floor could then be used as an air raid shelter during air raids. The very few building alterations which are necessary in this hall were talked over with Mr. Holve. The main things are the erection of a barbed wire fence in front of the hall which allows a small exit and the erection of a small barracks for the

commander of the guard and his duty office and for the German female guard personnel. In the hall itself, two rooms for each five German guards are to be constructed on the first floor, windows to be put in, building of toilets so that the inmates have no need to go downstairs at night. Furthemore, washing accommodations are to be made available for the inmates.

Rolling Mill No. II will let the clothes of the inmates be washed in a room which is already available outside their accommodation.

The main administration for workers' camps will take charge of the feeding for the inmates and guards according to the agreement made on 5 July between SS Standartenfuehrer Pister and Mr. Kupke.

The SS is providing a guard unit consisting of guard commander and 10 men. For 520 women we have to name approximately 45 German women who will be sworn into the SS, given 3 weeks training in the women's [concentration] camp at Ravensbrueck and then given full official supervision duties by the SS. A leaflet for the obtaining of women as forewomen is attached.

The obtaining of these German female guards will be the most difficult problem presented to us by the assignment of concentration camp inmates. An inquiry at the Essen labor office, director Dr. Simon, has shown that we cannot obtain such people through the labor office. Therefore, we must obtain them from our own works. Rolling Mill No. II and the electrode construction workshop will make an effort to obtain up to 30 German women out of their personnel each in relation to the number of inmates asked for, who are willing to sign on for the above-mentioned purpose, and who are also fitted for it.

In case the departments requiring employees cannot obtain the required number of German women as security personnel it would be necessary to draw them from other departments.

The transfer of the 520 women asked for could only take place after the training of the German women therefore in practice, in 4 weeks at the earliest.

[Signed] TROCKEL

1 Enclosure*

Distribution:

Messrs. A. v. Bohlen, Janssen,
Houdremont, E. Mueller,
Ihn, v. Buelow, Lehmann, Hanko, Hintz, Holve,
Kraus, Kupke, Hoesgen (WwI), Braun (WwII),
Engerisse (springs workshop), Waluner
(electrode workshop), and Trockel.

* The enclosure, a leaflet concerning the obtaining of forewomen was not attached to the document introduced in evidence.

PARTIAL TRANSLATION OF DOCUMENT NIK-9802
PROSECUTION EXHIBIT 1021

EXTRACTS FROM THE RECORD OF A MEETING OF KRUPP'S SPECIAL LABOR ALLOCATION ENGINEERS ON 9 AUGUST 1944, DISTRIBUTED TO SEVERAL DEFENDANTS, CONCERNING LABOR ALLOCATION AND EMPLOYMENT OF FEMALE CONCENTRATION CAMP INMATES

Fried. Krupp
The Labor Allocation Engineer

Date: 17 August 1944
No. 18

Distribution:
A. K. v. Bohlen, Goerens, Houdremont, E. Mueller, Janssen, Ihn, Eberhardt, Rademacher, Girod, Kraus, all Special Labor Allocation Engineers.

[Stamp]
Workers Protection
21 August 1944

Responsible for action:

Report on the meeting of Special Labor Allocation Engineers, 9 August 1944.

Present:	Mr. Becker,	Hintz,	Rabe,
	Beusch,	Ihn,	Rosenberg,
	Blume,	Jaegers,	Schmidt,
	Buecking,	Klamma,	Specht,
	Creutzfeldt,	Klinger,	Stratmann,
	Delere,	Kraus,	Treusch,
	Eickhoff,	Lehmann,	Trockel,
	Giesecke,	Meise,	Willeke,
	Herfort,	Pless,	Winschermann.

1. *Combing out of personnel*—All jobs in the plants and offices must be strictly examined to see whether females may be employed in place of male staff.

In this sphere it may be taken for granted that strict examinations will be made by special commissions.

Labor Allocation Office I must receive replies to the following questions:

By 15 August 1944—

(1) Which male labor can be replaced by women if a rigorous standard is applied?

(2) To what extent can the plants use additional labor of:

a. German women

b. Concentration camp inmates

(3) Where can concentration camp inmates be employed and in what numbers?

By Saturday, 12 August 1944—

(4) How many female employees can be apprenticed immediately and for what jobs?

2. Mr. Ihn in rendering a comprehensive review of the labor allocation situation, arrives at the conclusion that any allocation of male employees worth mentioning can no longer be expected. Therefore, the use of female labor must be increased, even doubled, regardless of the circumstances. Also in technical professions more women must be employed as has been done already in the case of draftswomen, female calculators, and preparers of work. Mr. Jaegers reports in this connection that the plant railroad had obtained very good results with female switch operators and he intends to use female stokers for steam locomotives.

* * * * * * *

In addition, female concentration camp inmates will arrive during this month. Mr. Hanko is examining the allocation possibilities. Prior to allocation, however, guard personnel must be available. The plants must make use of every possibility for allocating female concentration camp inmates. Requests are to be made to Mr. Hanko.

The difficulties arising from the allocation of part-time female workers must be overcome by the plants. Women also can be used for night shifts.

Female workers assigned for work in the Cast Steel Works must report at first to Labor Allocation Office I. From here they will be distributed to the plants. Plants are obliged to assign work to this personnel and must refrain from sending them elsewhere on some pretext or another. If after a certain waiting period it should be impossible to employ them further, then Labor Allocation Office I is to be notified.

* * * * * * *

[Signed] SPECHT

TRANSLATION OF DOCUMENT NIK-8531
PROSECUTION EXHIBIT 1023

CIRCULAR TO KRUPP PLANTS, SIGNED BY DEFENDANT LEHMANN AND MR. KRAUS, 1 SEPTEMBER 1944, CONCERNING EMPLOYMENT OF WOMEN FROM CONCENTRATION CAMPS

Main Administration A 222

Cast Steel Works, 1 September 1944
Labor Allocation Office I
H/Neu

[Stamp]
Private Secretariat
Received: 2 September 1944

To the plants

Subject: Employment of women from concentration camps

Tests have shown that the employment of women from concentration camps in our plants is practicable mostly in small numbers only, with the consequence that the number of guards required becomes disproportionately large. Therefore, it is contemplated to put a fairly large number of women from concentration camps to work in a locked room in the Armor Plate Shop 4 under comparatively favorable supervisory conditions for welding work, and also to a small extent for light mechanical work, drilling and milling.

The plants are requested to submit data with drafts concerning suitable work which, if possible, can be performed regularly, to Mr. Anhenn, Armor Plate Shop 4, until 5 September. Further inquiries should also be directed to this address (Phone 27075). The beginning of work can be expected in the second half of September.

Fried. Krupp
[Signed] ppa KRAUS

[Signed] ppa [per prokura] LEHMANN

2. PROSECUTION TESTIMONY AND AFFIDAVITS

EXTRACTS FROM THE TESTIMONY OF PROSECUTION WITNESS ELIZABETH ROTH*

DIRECT EXAMINATION

MR. THAYER: Witness, will you tell the Tribunal your name?

WITNESS ROTH: My name is Elizabeth Roth.

Q. Your name—is your last name spelled R-o-t-h?

A. That's right.

Q. And will you tell the Tribunal your age?

A. I was born in 1923 on 7 August in Uzhorod, Czechoslovakia.

Q. Is that a section of Czechoslovakia which was taken over by the Hungarians during the war?

A. That is right, and now it belongs to Russia.

Q. Will you tell the Tribunal how it happened that you were taken from your home during the war, and what was done with you at first, the first few days? Where were you taken from your home?

A. I was taken from my home to Auschwitz concentration camp in 1944. On 19 May I arrived there. I was separated from my family, my mother, father, sister, and brother. I was left with my sister who is 2 years younger. I stayed at Auschwitz for 6 weeks where all my belongings first were taken away. My hair was shaven. I got a prisoner's gown, wooden shoes, and that is all.

Q. Will you tell the Tribunal when you left Auschwitz? Did your family go with you?

A. My family was taken to the gas chambers first when we arrived at Auschwitz.

Q. Who did you leave Auschwitz with?

A. With my sister.

Q. Did you leave Auschwitz also with other persons?

A. We left Auschwitz, 2000 girls and women.

Q. Do you know why you and your sister were not sent to the gas chambers at Auschwitz?

A. Well, probably because we were young and healthy for working in Germany.

Q. And then will you tell the Tribunal where you went from Auschwitz, to work some place?

A. I was sent to work in Germany, to Gelsenberg.

Q. Was that the concentration camp Gelsenberg?

A. Gelsenberg, yes.

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* Miss Roth testified in English. Complete testimony is recorded in the mimeographed transcript, 8 January 1948, pp. 1251–1326.

Q. After you had been at Gelsenberg, will you tell the Tribunal how you happened to go to Essen? Were you with a large number of girls?

A. We were in Gelsenberg, 2,000 girls. One day about five men arrived at Gelsenberg when we had a roll call. We had to stay in the yard and they chose young and strong women. First they wanted volunteers, but nobody wanted to go, because we didn't know what for. Everybody was afraid, so they forced us. We had to stay there, and they chose one after the other. I don't know how it happened, but in the last minutes when they had about 500, my sister was chosen too. When she said she had a sister and two cousins—three cousins—with her, they didn't want to take her because my two cousins were very small and young; not strong enough for hard work; but they didn't have no other choice because they still needed 20 people, so we were taken with her too.

Q. Am I correct then that you and 2,000 girls approximately were brought out, stood up for inspection, and then somebody chose you for work.

A. That is right.

Q. For work?

A. Yes.

Q. And you did say that you declined?

A. Nobody wanted to go voluntarily because we didn't know actually whether it was for work or whether it was the gas chamber.

Q. Will you tell the Tribunal whether these persons who selected you were SS men in uniform?

A. No, they were civilians. I can recognize two of them, and I recognized them when I was working in the factory. They were Mr. Braun and his assistant. I can't remember the other one's name, but I know which ones they were.

Q. You say that among the civilians—

A. Yes. One was Braun* and the other one Hammerschmidt; both working at the Rolling Mill. They were in charge of Rolling Mill No. II where I was working.

Q. And to go over that, you say that among the civilians who selected you for work—

A. Yes.

Q. —at Gelsenberg there were two whom you later saw in Essen in the Krupp plants by the name of Braun, B-r-a-u-n?

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* Theodor Braun was one of the persons who received a copy of Document D-238, Prosecution Exhibit 1019, reproduced in part above in Section VIII F 1. Braun gave an affidavit (Lehmann 116, Def. Ex. 1054) to the defense and was examined before a commissioner of the Tribunal. Extracts from his affidavit and from his testimony are reproduced below in section VIII F 4.

A. Yes.

Q. And Hammerschmidt?

A. Yes, that's right.

Q. And will you tell the manner in which the selection was made? Did they call you by name, how did they—?

A. Well, we didn't have names. We had only a gown, on the left arm we had our numbers, but they didn't ask our numbers. With their finger they just showed at each person whom they wanted.

Q. They just walked down the line—

A. Yes.

Q. And pointed out the people they wanted for this job?

A. Yes.

* * * * * * *

Q. Will you tell the Tribunal where you stayed in Essen?

A. In Essen, at the camp Humboldt.

Q. That was in Humboldtstrasse?

A. Yes.

Q. And were you told that it had previously been occupied by Italian workers?

A. Before we arrived, this Humboldt camp was occupied by Italians. They didn't even clean the camp when we arrived there. It was dirty and we had to clean it.

Q. Were you in a position to know or were you told that this camp Humboldt was on the property of and belonged to the Krupp firm?

A. That is right.

Q. Was the camp open? Were you free to come and go to any extent?

A. No, there were SS guards on the gate and the camp was around with barbed wire.

JUDGE DALY, Presiding: I didn't get that last.

MR. THAYER: The camp was surrounded by barbed wire.

And did you remain in the camp Humboldtstrasse or did you after an air raid move to another location?

WITNESS ROTH: We stayed the whole time at camp Humboldt.

Q. Will you tell the Tribunal something of the living conditions in that camp?

A. When we arrived at Essen, we lived in wooden barracks. It was in August. On 23 October was an air raid, when the barracks were burned. Then we moved into one barrack, all the 500 of us, where the kitchen was before. We stayed there until 12 January when there was again an air raid. We moved into the cellar, we worked, no light, no heat, no baths, nothing at all.

Q. Was there running water?

A. No water at all.

Q. Where did you sleep?

A. On the floor. We were lucky when we could find a piece of wood, take it down to the cellar and sleep on the wood.

Q. Did you have mattresses?

A. We were 500, but if there were 30 straw mattresses, it was much.

JUDGE DALY, Presiding: How many?

WITNESS ROTH: Thirty.

MR. THAYER: When mattresses, blankets, etc., were supplied, who supplied them?

A. We got—every person got one blanket when we arrived. That is all.

Q. Did that blanket have any markings on it?

A. No.

Q. Was there vermin in the camp?

A. I beg your pardon?

Q. Was the camp verminous? Were there bugs in the camp?

A. Well, it was filthy and dirty.

Q. I didn't catch that. Would you just repeat that word?

A. It was filthy. Everything was as filthy as possible in the cellar.

Q. When you went to work, can you tell us whether you went in groups or singly? Were you under guard?

A. Every morning when we got up we had to stand roll call. We were selected in groups. Every group went to a different plant. I was working in Walzwerk [Rolling Mill] II, where we were 100 to 120.

Q. When you got up in the morning and then went to work, did you walk to work or did you ride to work?

A. For about 2 weeks, we went by streetcar. The rest of the time we walked back and forth.

Q. You walked in a large group?

A. Yes.

Q. Under guard?

A. SS men and SS women.

Q. You walked through the open streets of Essen?

A. Yes.

Q. Under guard?

A. Yes.

Q. Will you tell the Tribunal something of your appearance at that time? Was it clear that you were concentration camp workers who were on their way into the Krupp plant? Could the public see you go into the gates of the Krupp plant?

A. Everybody could see us, because we were walking on the street where everybody was going to work in the morning and in the evening.

* * * * * * *

Q. Can you estimate in your recollection how often it happened that you went without any food at all for a period of at least 24 hours?

A. I can't remember the number, how often it was, but it was very, very often that I didn't receive any food.

Q. When you say very often, you mean something like—

A. It happened twice a week, in one week maybe three times. I couldn't say an exact number, how often it was in one week.

Q. And you did receive this food all at one time in the evening, you say?

A. Yes, that was all.

Q. You never received any breakfast?

A. No.

Q. Did any of the SS guards ever say to you, when you complained about food, "Ask Krupp about that"? You said that they were continually saying that with respect to complaints.

A. Yes, that was the answer from the SS men and women, "You work for Krupp, ask from Krupp."

Q. Will you tell the Tribunal whether or not if you were ill, some care was taken of you? Will you tell the Tribunal what care?

A. We had the dispensary where very, very sick people could go with a very high temperature, I could say, half dead. Most of us were frightened to say that we were sick. We could be very, very sick, but we could not go, since we were afraid that we would be taken to the gas chamber.

* * * * * * *

Q. You say also that you were beaten if you didn't work. Was this done in public? Was it openly done by the SS guards?

A. We were beaten in the factory and beaten in the camp. We were kicked. We were beaten by the SS men, not by the soldiers, but by the SS men in the factory.

Q. I would like to ask the witness if she recognizes this instrument as one similar to that with which she herself has at one time or another, in Essen, while working for Krupp, been struck?

A. Every SS man had that. I got it once on my face. The camp leader—his only pleasure was to hit anybody in the eyes.

JUDGE ANDERSON: Pass that thing up. Let me see it. (The instrument was handed to the judge.) Go ahead.

MR. THAYER: You have been—or you have been, pardon me, have you ever been struck with an instrument such as that which you were shown?

WITNESS ROTH: Yes, once.

Q. While you were working in Essen?

A. Yes.

Q. For Krupp?

A. It was one evening, I came home, I was tired, staying in line for my food, I don't know why, and how it happened, one of the SS soldiers walked up to me and hit me over my face.

Q. And you say that you were struck, and the other workers were struck, with this. Did you ever see other workers struck with an instrument such as this?

A. In the factory, they used to kick us with the SS boots.

Q. I think you didn't understand my question. Did you ever see other members of this group of 520 concentration camp workers also struck with an instrument such as this?

A. You mean that they struck somebody else?

Q. Yes, did you ever see them strike somebody else?

A. I could see that—ten, twenty every minute. There was no one present in the camp who didn't feel that, who doesn't know what it is. I was lucky I got it only once, but I have seen people blue and red on the whole body; they couldn't get up and still they kicked them.

Q. This mistreatment also occurred—

JUDGE DALY, Presiding: Excuse me, this has been referred to, and has not been marked. Do you want to have it marked for identification?

MR. THAYER: Yes, I do want it marked.

JUDGE DALY, Presiding: 556 for identification.

MR. THAYER: 556 for identification.

Witness, you say that this beating and kicking took place in the plant as well as in the camp, is that correct?

A. That's right.

Q. Will you tell me whether any of the civilians employed by Krupp either as workers, officials—you might tell, if you know, what their capacities were—did any of them ever beat or strike or kick you, or did you ever see them do that to any of the other girls?

A. I have seen it very often done by the SS men who were in charge. They never worked, but they just walked in the factory and watched us, whether we were working, and whether we were fast enough. If one of them saw that somebody was getting only three, or two bricks, when he said to carry four, he kicked us and sent us over to work fast, as much as he could.

Q. Were you ever kicked by a civilian worker of Krupp, not an SS man?

A. Yes, I was.

Q. A civilian?

A. Yes, I was.

Q. You are sure that that person was working at the time as a Krupp employee, are you?

A. Yes. He was in charge, to watch how fast we worked, and if we worked hard enough.

Q. Do you happen to remember, or do you know the name of that person?

A. I know his first name because I used to hear how they called each other, but I don't know the second name; I could recall he was a short fellow with SS boots.

* * * * * * *

Q. Will you tell the Tribunal the ages of the girls who were working in this group?

A. We had few very young girls about 15 years of age; and 35; and I think very few of the age of 40—from 35 to 40, I think, very few. Most of us were 15 to 25.

Q. And do you—did it ever occur to you that you were punished at any time after a Krupp official asked an SS man to punish you?

A. It very often happened, and when Braun was making inspections in the factory, just coming through the factory, and probably he saw if we didn't work hard enough and we didn't look tired enough for him, he just walked to the SS man and he asked him to punish us; and then it happened we didn't get food and were punished.

Q. Were you ever struck or hit on occasions like that?

A. Very often. It happened to most of us, that we were struck and kicked.

Q. Will you tell the Tribunal how you happened to get away from Essen? When the American Army was approaching Essen, did you know that? Did you hear that they were coming? Will you tell the Tribunal what you learned, and how you happened to get away?

A. We had some workers in the factory, they used to tell us what they heard, or we heard it through the radio. I heard that the American Army was approaching Essen, so we hoped it is just a question of a few days they will be in Essen. I always wanted to escape, but it was very hard; it was just impossible. Beginning—before I heard that they wanted to take us to Buchenwald, it was just a few days before the end of the war, I said

to my sister,* "I don't want to go; I can't. I know that if they take me to Buchenwald I won't live any more. It has no sense for me to go from Essen." One of the workers from the factory told me that we were the last day in the factory; next day we were going to Buchenwald or somewhere else to a concentration camp. I asked him if I escaped if he would hide me. He promised me he will if I can escape. I went to the factory. I had two cousins there. I asked them if they would like to come with me, "I am going to escape tonight." They said they would. I had two girl friends. I asked them; they wanted to. At 11 o'clock was a big air raid. There was a small gate; we opened the wire and we escaped. That gate was never used. It happened once that we used that gate because it was after the air raid in October, the 25th, when it was possible for us to go through that gate once I knew the way. We escaped. It was through the field, and we hid in the graveyard. We waited for the German, who never turned up. In the morning, my sister was one of the girls, went to look for a German who was working in the factory and knew he was living nearby. They couldn't find the place; everything was destroyed. On the way back they thought we were lost they met a German. He was shocked when he saw my sister. When they explained to him that we escaped he said, "I can't help you; better go back." But I knew that we couldn't go back; it was no sense to go back, because we would be shot. I asked him to give me a pistol; I would kill myself better. He said he couldn't do that; he will see what he can do. I said I will do everything I can, but he must help. So he helped us. We couldn't stay in that cellar; it was open; no place to sit down. We find another cellar. We move there. At night, at 1 o'clock he used to bring us each a potato, a slice of bread. The first 3 days he didn't bring anything. He was afraid to say to his wife that he is going to help us. After 3 days we got the one potato, each of us at night. The fourth day he brought us a bottle of water. We didn't know what to do with that water, drink from the water—to drink or to wash ourselves. It was then for one and a half weeks that he used to come and see us at night. Then one German came down and he asked what we are doing there, and we say that we escaped from the Americans, we are Germans, and are going back to look at the homeland. He asked if we have a man with us, and we said, "No, no man." He asked, "Are you not Hungarians who escaped from the concentration camp?" We said, "No, we are not; we are Germans." He

* The witness' sister, Ernestine Roth, also escaped and testified in the trial. Her testimony appears in the mimeographed transcript, 9 January 1948, pp. 1327–1375.

said, "You had better watch, because the Gestapo found 12 Hungarians who escaped from the camp and they were just killed." And we were afraid to stay there, because we didn't know what to say to the German; he would be afraid to come there again. But there was no choice; we had to tell him. He realized it. He said he had a wooden hut, and he said, "If you like to stay there, you take it." So we chose that. We stayed there for a few days, but after a few days he couldn't feed us. He didn't have more potatoes. He was a very, very poor man who didn't have enough for himself to eat. A few days later he said he couldn't feed us, and he couldn't come back, because he was afraid of his neighbors; they would find out that we were there. So we knew a German who had a business, and he would help us because he promised. We didn't know the name of the German; we didn't know where he lived, but we knew the place of one of the workers; he was working with us; so one night with his wife, his sister, we went down to find out where the businessman was living. And we went down, and he said of course he would, so four of us stayed with that man with his business—he had a food business. We had a normal life there, and we stayed there until we were liberated.

Q. And will you tell the Tribunal whether or not any threats had been made prior to the time that you escaped, which would indicate what was going to happen to you if Allied troops did enter the city?

A. The SS say we have always 5 minutes; the last 5 minutes we shall kill you.

Q. You say the SS men said that during the last 5 minutes they would kill you?

A. Yes.

Q. Did they say this often? Who said it or when was it said?

A. We heard that every day from the SS men and the SS women.

Q. Was it said frequently?

A. Every day.

Q. Beginning when? Can you estimate when you first heard that kind of remark?

A. In the last few months.

Q. In the last few months. Thank you.

Do you remember the names of the people who did help you the last few days—the grocer—the food man, you said, and the other man in the plant?

A. The man who had the business is Fritz Niermann, living in Essen, Markscheide 15.

Q. That is—would you—do you have the spelling of that? Of the name of—

A. Of the name of Niermann.

Q. And the other man—

A. Is Marquardt.

Q. Marquardt?

A. Essen, Stadtwiese, I don't know the number. His first name is Gerhardt.*

* * * * * * *

JUDGE ANDERSON: I would like you to inquire of her what character of food was given the German workers in the plant, served to them.

MR. THAYER: Miss Roth, can you answer the judge, do you know what kind of food was given in the plant during the midday meal?

WITNESS ROTH: The food I have seen several times. The food was better than the Germans had probably at home, or some of them, because the poor man at that time had a very low salary and had many children. He couldn't afford to have a meal like he had there. I heard from Vogt always that food is good, and many of them didn't have that at home. I have seen, the food was clean, the food was good. It would be a holiday for me if I could have tasted that food once, at that time.

EXAMINATION BY THE COURT

JUDGE WILKINS, Presiding: What kind of food was it? What did you see?

WITNESS ROTH: It was soup, or potato soup or a vegetable soup, mashed potatoes, sausage, or meat. They had coffee or tea during the daytime. We were not allowed to drink that.

JUDGE ANDERSON: Did they just have one meal at the plant, the Germans?

WITNESS ROTH: The Germans had one meal at noon at the plant, but they had coffee in the morning and coffee in the afternoon.

Q. Were none of you furnished any character of gloves at all?

A. No, none of us ever received any gloves.

JUDGE ANDERSON: All right.

JUDGE DALY: You said, Miss Roth, if I understood you correctly, civilians from the Krupp company or factory came and inspected the camp at night?

WITNESS ROTH: I never said that. The factory, the plant—there were inspections, I said, in the plant at night.

Q. In the plant at night?

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* Gerhardt Marquardt later testified as a defense witness. Extracts from his testimony are reproduced below in section VIII F 4.

A. Because they were afraid that we shall sleep or do something else at nighttime, because nighttime were very few Germans working.

Q. Well, now, the conditions that you have described that you worked under, did those conditions exist during all the time you worked at Krupp, so that anybody coming into the part of the Krupp factory where you worked could see the conditions you worked under?

A. Yes, everybody could see.

Q. That was day after day?

A. Day after day.

Q. And night after night?

A. Night after night.

JUDGE DALY: That is all.

PARTIAL TRANSLATION OF DOCUMENT NIK-8766 PROSECUTION EXHIBIT 1033

EXTRACTS FROM THE AFFIDAVIT OF PETER GUTERSOHN, A KRUPP WORKER, 22 MAY 1947, CONCERNING TREATMENT OF FEMALE CONCENTRATION CAMP INMATES EMPLOYED IN KRUPP MACHINE CONSTRUCTION SHOP 9

I, Peter Gutersohn, residing at Essen-West, Bockmuehlenweg 2, after having been warned that I shall be liable to punishment for making false statements herewith declare the following under oath of my own free will and without coercion:

I have been with Krupp since 1912. I worked in machine construction 9, a plant which built tank and gun turrets. Plant leader Wunsch of machine construction 9, resident in Sythen near Haltern, Stockwiese, treated the foreigners, prisoners of war, or civilians working there in a very brutal manner.

* * * * * * *

Following the middle of October 1944 we also received an allocation of concentration camp women, Hungarian Jewesses. These women were in very run-down condition. They had to load rubbish and cart it away on wheelbarrows and carry iron girders; they were also employed on other cleaning-up activities. These Jewesses had neither work clothes nor protective gloves for these jobs. Their entire clothing consisted of one ragged dress made of burlap. They wore wooden slippers on their naked feet. The huts in which these Jewesses lived were severely damaged during an air attack, so that the huts were no longer waterproof. Thus in winter the Jewesses had to come to work in the worst weather,

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dressed in their wet rags, with simply their thoroughly soaked blankets on their shoulders. I have witnessed this myself on many occasions. If, in these conditions, the women wanted to dry themselves out a little at a coal fire, or if they tried to wash some of their rags, they were immediately driven away by Wunsch.

The Jewish concentration camp women were accompanied to their work by two SS women, and at their work they were guarded by an armed member of the Wehrmacht. At the various jobs themselves they were supervised by the competent members of the staff.

One day at the beginning of March 1945 these Jewish concentration camp women did not come to work, and since that time I have heard nothing more of them.

I have carefully read each of the two pages of this affidavit and signed them with my own hand. I have made the necessary corrections in my own handwriting and initialed them. I herewith declare under oath that I have stated the full truth to the best of my knowledge and belief.

[Signed] PETER GUTERSOHN

EXTRACTS FROM THE TESTIMONY OF PROSECUTION WITNESS PETER GUTERSOHN[1]

CROSS-EXAMINATION

* * * * * * *

DR. WOLF (counsel for the defendant Lehmann): Witness, in one of your affidavits (*NIK–8766, Pros. Ex. 1033*)[2] you said that in October 1944 women were brought from the concentration camp, and they were working in your machine shop. To which plant had they been allocated?

WITNESS GUTERSOHN: I saw the Jewish women for the first time in early summer 1944 when they arrived, or rather, when they passed us on the streetcar in Kraemerplatz. These were streetcars which had neither windows nor doors. That is when I first saw these women, and a little later—perhaps 2 months later—after the shift, there was an alert. We had to go to the air raid shelters. At that time I saw these women for the first time quite near, because I had been sent to our air raid shelter. I was deeply shocked when I first saw these women. I must say I was really ashamed to be a German when I saw what had been done to these women.

* * * * * * *

[1] Gutersohn's complete testimony is recorded in the mimeographed transcript 17 February 1948, pp. 4142–4175.

[2] Reproduced immediately above.

Q. Where were they allocated to work?

A. These women had been allocated to machine construction No. 15, or small apparatus construction No. 1. Perhaps I am making a mistake here, because machine construction No. 15 and small apparatus construction No. 1 are plants which are adjacent.

Q. Could you see what these women were working on there?

A. I couldn't see that, because within our plant we were not allowed to leave our plant on principle. When we had come to our plants through the washroom, the rest of the factory was hermetically sealed for us until later the air raids damaged these automatically, electrically closing doors. Only then we had occasion to go into other plants, but what these women did there, I heard of it, but I never saw it myself.

Q. Were these two plants—I believe you said machine construction No. 15 and small apparatus construction No. 1—under Wunsch, as well?

A. No, these plants were not under Wunsch.

Q. Although you didn't see, yourself, what kind of work these women did, and although these two plants in which these women worked were not under Mr. Wunsch, I see in your affidavit all the same: "Mr. Wunsch employed these women on the heaviest work." Could you kindly explain this discrepancy to me?

A. Mr. Defense Counsel, previously I spoke of first seeing these women. These women arrived in October 1944 from machine construction No. 15, or small apparatus construction No. 1, to our plant. Until this time I had only seen these women occasionally during the transport there and back and when they came to our air raid shelter, speaking quite generally. They arrived at our plant in October 1944, and there I had an opportunity of witnessing all of this myself. What I have stated in my affidavit is completely correct.

Q. You say that such women were also working in machine construction No. 9?

A. Yes.

Q. What did they do there?

A. These women had to do clearing work, debris clearing work, they had to cart away debris after air raids. After all, we suffered damage, our office had burned out. Everything was put up again, of course, and the debris had to be carted away. There were stones, bricks, "T" irons, small profile irons, etc. All these things had to be carted away by these women from our plant. Later on they were used for clearing up work outside. When we emerged from machine construction No. 9 and went across to machine construction 15, which had been completely

destroyed, in that destroyed plant a so-called motor vehicle repair shop was to be erected, and all the debris had to be taken away.

Q. You wrote here in your affidavit that the women had to carry heavy irons, etc. I may interpret it, after listening to your statement today, that these were small "T" irons?

A. Yes, I must say that this work for which these women were used had never been done by any German women who also were employed in our plant. I have never seen a German woman in our plant who ever carried away wood or debris, etc.

Q. But the debris in Essen today is only being taken away by German men?

A. Mr. Defense Counsel, I must ask you to remember this: the debris in Essen is unfortunately still being carted away by our German women, although there would have been enough men to do it. I want to stress that.

Q. Do you know in which other plants these women were working?

A. I could say, although I only heard it. I don't want to say something I know from hearsay.

Q. That's right. You needn't say that at all. I just want to know what you saw yourself.

A. I can't say anything about that, because as I said already, we in machine construction No. 9 hardly had opportunity to go into another plant.

Q. All right, I didn't ask you about the mistreatment which, according to your affidavit, you only know from hearsay. I only asked you about what you saw yourself. Now, one question. You say the women at their work were being supervised by the other workers at the place of work. Weren't there SS women or SS guards of whom you talked earlier?

A. At the place of work these women worked under the supervision of workers in our plant, and these supervisors were, so to speak, supervised by these two SS women, who also supervised these Jewish women doing work, and also took them back after work. The soldiers, themselves, did not really care much about this work.

Q. Did you ever experience that German workers insulted these women or mistreated them?

A. I must say yes, unfortunately. A few workers, because of the propaganda at that time, became insulting against these women, insofar that one said over and over again: "What are we going to do with this rabble? Why don't you kill them"? These are words which I heard, also, and the people who said this were rather aggressive National Socialists. I tried to acquaint these people with my viewpoint on this question and,

of course, I had to be very careful in order not to give them any material against me by speaking careless words which could have led to denunciation.

Q. In your description you always make a distinction between the workers who had been influenced by National Socialist propaganda and the others, who had retained their normal human feelings and common sense, and you apparently belonged to that latter group. Could you tell me the attitude of the workers in the machine construction No. 9? Were they influenced by National Socialist propaganda, or were they still reasonable? What was the majority like?

A. I may say that if I want to put it very carefully, a great part were, for the most part, veteran workers of Krupp who had grown up with the firm from 1899 onward, and these people for the greater part were reasonable and tried again and again to settle these matters on a basis that was tolerable. Among ourselves I can say this quite openly today. We had connections regarding all incidents which interested us at that time.

Q. If I have understood you correctly, in order to summarize your statements quite briefly, it is also your view that these regrettable incidents—insults and maltreatment of foreign workers, prisoners of war, and especially these unfortunate women, were transgressions on the part of individuals who had been greatly influenced by propaganda, but you couldn't say this represented a system?

A. I must say, though, that what you have said just now was caused mainly by our plant leader at that time, whom I really could not look upon as a leader of men. I must say he really was not able to cope with this task, and his arrogant nature—I sometimes had the impression that he was a morphine addict. I assume that such a man is quite normal at one moment, and as soon as he had had an injection, he becomes quite explosive; and because of the plant leader, others were incited, and they let themselves be influenced to mistreat foreign workers and insult them.

Q. But you can't say that all these things were caused by a system ordered by the Krupp firm, or would even have been tolerated if they had become known. Does this correspond to the whole attitude of Krupp—and you can judge this because you are an old member of the firm?

A. I have the impression, and especially after you pointed out a circular a little while ago, regarding the treatment of foreign workers, generally, that this point of view—I must say here that I didn't see the circular myself—that this represents the attitude of the firm: that one should behave decently toward these for-

eigners. I emphasized a little while ago that I attribute this mainly to the plant leader, Wunsch.

DR. WOLF: No further questions.

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TRANSLATION OF DOCUMENT NIK-11676
PROSECUTION EXHIBIT 1034

AFFIDAVIT OF ADOLF TROCKEL, 24 SEPTEMBER 1947, CONCERNING EMPLOYMENT OF FEMALE CONCENTRATION CAMP INMATES BY KRUPP

I, Adolf Trockel, residing in Essen, after having been informed that I render myself liable to punishment, if I make a false statement, declare the following under oath, voluntarily and without duress:

I should like to give the following statement in regard to the employment of 520 Hungarian-Jewish concentration camp inmates that were employed in 1944 at the Cast Steel Works of Fried. Krupp AG, in Essen: As Mr. Lehmann happened to be on a trip I was ordered by Mr. Ihn in 1944 to proceed to Gelsenberg. I was to have a look at the 2,000 Jewesses employed there in clean-up work and submit a report to Mr. Ihn. Mr. Ihn had told me in this connection to observe these women for the purpose of determining their fitness for work with Krupp. These 2,000 women were quartered in Gelsenberg in four large canvas tents. They were very poorly clothed: chemise, pair of knickers and a light gray overcoat and they wore very poor shoes. In my report to Mr. Ihn I had pointed out that the women in question were of a very slender build and that they were not fit for heavy work. In spite of my rather negative report, 520 of these women were brought to Essen in June and August 1944 to be employed in the various plants of the firm.* Subsequently a few discussions were held with SS officers. I still remember a discussion held with the officer in charge of the concentration camp Buchenwald, SS Standardtenfuehrer Pister, also a conversation held with SS Hauptsturmfuehrer Schwarz in Essen, where details like housing, employment, food, etc., were being discussed. On orders of the labor allocation unit "I", which was then under the supervision of Mr. Kraus and Mr. Hintz, these Jewesses were then put to work in Rolling Mill II and in the shops making electrodes and springs connected with it. They were given quarters in the camp Humboldtstrasse South. After the SS at first had insisted that

* The prosecution later quoted this part of Trockel's affidavit in a brief. This was shown to Trockel by a defense attorney and Trockel then executed another affidavit, (Lehmann 76, Def. Ex. 1014) which is reproduced below in section VIII F 4, followed by extracts from Trockel's testimony. Trockel testified as a defense witness.

feeding these women should be carried out by them, we finally made an agreement that this should be done under the supervision of the main administration for labor camps in accordance with rations prescribed by the SS for which they would send us coupons from Weimar. We paid a daily rate of RM 4.00 to the SS per day for each of these women employed at Krupp.

As to guarding these women I should like to state the following: One of the conditions made by SS Standartenfuehrer Pister or SS Hauptsturmfuehrer Schwarz in the discussions in Essen was that the firm should engage 45 women who should join the SS to be trained by them as guard personnel and subsequently returned to Essen. We then made inquiries in the various plants whether anyone would be willing to make applications to the SS for this purpose at the quite favorable terms offered. Upon our invitation approximately 50 women declared their readiness to join the SS. They then left the employment of Krupp and were sent to the women's concentration camp Ravensbrueck to enter a training course of 3 weeks duration. A part of these women then returned, dressed in SS uniforms, to us to Essen and took part in guarding the Jewesses. The officer in charge of Humboldstrasse camp was SS Oberscharfuehrer Rieck.*

At the time these women worked for us a Mr. Dolhaine from the labor allocation unit "A" concerned himself with questions in connection with the SS. I also know that Mr. Ihn had charged Lehmann to see to it that everything pertaining to the camp was in order. The camp completely burned down at an air raid in December 1944, however, the women were not returned to Buchenwald but, on their own request, built new sleeping quarters in the cellar of the Humboldtstrasse camp.

As to the removal of the Jewesses, which took place in March 1945, I should like to state the following: SS Hauptsturmfuehrer Schneier arrived in Essen one day, saying he had orders to remove all the concentration camp inmates, employed in the Ruhr district, to Buchenwald. As we were better acquainted with railroad connections, he requested us to appoint a man to aid him in making up a special train. We let him have Mr. Sommer for this purpose. These women were finally removed to Bochum in the middle of March 1945, over which route I do not know, where it was intended to make up the train to Buchenwald.

I have carefully read the foregoing four pages of this affidavit, I have made the necessary corrections in my own handwriting and countersigned them with my initials and I declare upon oath that in this affidavit I have said the full truth to the best of my knowledge.

[Signed] ADOLF TROCKEL

* Sometime spelled "Rick" in the following material.

3. AFFIDAVITS OF DEFENDANTS LEHMANN, VON BUELOW, IHN, AND JANSSEN

TRANSLATION OF DOCUMENT NIK–7679
PROSECUTION EXHIBIT 1238

AFFIDAVIT OF DEFENDANT LEHMANN, 20 JUNE 1947, CONCERNING KRUPP'S EMPLOYMENT OF FEMALE CONCENTRATION CAMP INMATES

I, Heinrich Lehmann, Nuernberg, after having been duly warned that false statements on my part will render me liable to punishment, herewith state the following under oath, voluntarily and without coercion:

After the firm of Krupp had been informed by the competent Berlin offices that in future only concentration camp inmates would be available for labor, I traveled to Berlin and Oranienburg in 1944 on behalf of my firm, and I informed the competent SS officer there that the firm of Krupp wished to have male workers assigned to them. Thereupon, I was informed that the firm probably would also have to employ women, because there was a very great demand for male workers in Germany. We also talked about the already submitted requirements for skilled workers for the firm of Krupp. In Oranienburg I was informed that Buchenwald concentration camp was the camp to which applications should be made for Essen and Krupp, and that we should get into direct touch with this camp.

During a stay in Thuringia in the same year, I received a note from Mr. Ihn, saying that I should contact the camp commandant, Pister, in Buchenwald personally, in order to point out urgently once again that the firm did not wish to have women assigned to them. Pister told me, however, that the firm of Krupp would probably have to reckon with taking a number of women.

I was not in Essen when the firm of Krupp was informed that 520 Jewesses from Horst had to be transferred to Essen to start work. On my return I heard that Mr. Ihn had instructed my colleague, Mr. Trockel, to go to Horst and organize the transfer of the women.

I have carefully read this page of the above affidavit, have made the necessary corrections in my own handwriting, and countersigned them with my initials, and herewith declare under oath, that this statement contains the pure truth to the best of my knowledge and belief.

[Signed] H. LEHMANN

TRANSLATION OF DOCUMENT NIK-11167
PROSECUTION EXHIBIT 1236

AFFIDAVIT OF DEFENDANT VON BUELOW, 17 JULY 1947, CONCERNING GUARDING OF FEMALE CONCENTRATION CAMP INMATES AND TRAINING OF FEMALE WORKERS OF KRUPP AS SS GUARDS FOR THE INMATES

I, Friedrich von Buelow, now at Nuernberg, having been duly warned that false statements on my part will render me liable to punishment, herewith state the following on oath, voluntarily and without coercion:

In June 1944, SS Colonel Pister, the camp commander of Buchenwald, came to Essen to discuss questions relating to the allocation of concentration camp inmates to Friedrich Krupp. Since the original intention was that these concentration camp inmates would have to be guarded by the plant police (which was subordinate to me), I was called into the discussion. However, since Pister declared that the guard duties could only be performed by SS guard personnel, my presence at the discussion was no longer necessary.

Only later did I learn that female workers were recruited by Krupp for the SS, and that they returned to Essen, after a short training period, as female SS guards for the inmates who had been allocated to us.

I have carefully read the one page of this affidavit and signed it personally, made the necessary corrections in my own handwriting, and countersigned them with my initials, and I declare herewith on oath, that I have in this statement told the pure truth to the best of my knowledge and belief.

[Signed] FRIEDRICH VON BUELOW

TRANSLATION OF DOCUMENT NIK-10758
PROSECUTION EXHIBIT 1241

AFFIDAVIT OF DEFENDANT IHN, 21 JULY 1947, CONCERNING EARLY NEGOTIATIONS BETWEEN KRUPP AND THE SS ON EMPLOYMENT OF CONCENTRATION CAMP INMATES BY KRUPP AT ESSEN*

I, Max Ihn, at present in Nuernberg, having been duly warned that false statements on my part will render me liable to punishment, herewith state the following on oath, voluntarily and without coercion:

* In October 1945, the defendant Ihn executed another affidavit (D-274, Pros. Ex. 1268) concerning employment of foreign workers, prisoners of war, and concentration camp inmates. This affidavit is reproduced above in section VIII B 3.

After we had had negotiations with negative results with the SS concerning the employment of concentration camp inmates in the Cast Steel Works in Essen in 1942, we did not refer to this again in Essen until the summer of 1944.

As the labor situation was very critical at this time, and we had been informed by a circular that it was no longer possible to obtain workers on a civilian employment basis, and that concentration camp inmates only could be obtained for industrial work, Mr. Lehmann was sent to Oranienburg, to the economic administration head office, in order to negotiate with regard to the employment of concentration camp inmates by us.

May I emphasize that I did not decide on this problem concerning the employment of concentration camp inmates independently, but only after discussing the matter with Mr. Houdremont, in his capacity of plant leader, and Mr. Janssen, as my direct superior. If I remember rightly I also discussed the security aspect of this employment of concentration camp inmates with our chief counterintelligence agent, Mr. von Buelow.

I have carefully read this one page of the above affidavit and signed it personally, have made the necessary corrections in my own handwriting, and countersigned them with my initials, and I declare herewith on oath that I have, in this statement, told the pure truth to the best of my knowledge and belief.

[Signed] MAX IHN

TRANSLATION OF DOCUMENT NIK–10346
PROSECUTION EXHIBIT 1245

AFFIDAVIT OF DEFENDANT JANSSEN, 30 JUNE 1947, CONCERNING KRUPP EMPLOYMENT AND TRANSFER OF FEMALE CONCENTRATION CAMP INMATES

I, Friedrich Janssen, Nuernberg, having been duly warned that I render myself liable to punishment in case of false statements on my part, herewith declare under oath, voluntarily and under no duress the following:

With regard to the employment of more than 500 female concentration camp prisoners, the following is known to me: In the summer of 1944 the Krupp technical plant management, under the direction of Mr. Houdremont, demanded the employment of these women in order to obtain sufficient labor for fulfilling government orders. The employment of these women was repeatedly discussed in the Vorstand and other bodies. The women were used for work, although I cannot recall any specific resolution

by the Vorstand. Personally, I objected to the employment of these women. However, the gentlemen of the plant management were obviously under pressure from government agencies as regards the fulfillment of the programs.

About the deportation, the following is known to me: One day, while we were in the cellar during an air raid alarm, Dr. Lehmann told me that the women in the concentration camp were in danger, because he had heard that their lives were threatened, and he wondered whether it was not advisable, under these circumstances to transfer the girls. I know that all foreign workers were supposed to leave Essen and were to be collected east of the Ruhr district. I said to Mr. Lehmann, that if the girls were in danger it would certainly be better if they were taken away from Essen. This question was also discussed between Mr. Houdremont, the gentlemen of the Vorstand and myself. These gentlemen, too, were of the opinion that it would be wiser if the girls left Essen, for their own safety. Mr. Lehmann was in charge of the removal. As far as I know, he got in touch with Mr. Houdremont for a decision whether the girls really should be sent away.

I have carefully read the two pages of this affidavit, have made the necessary corrections in my own handwriting and initialed them, and I herewith declare under oath that in this statement I have told the absolute truth to the best of my knowledge and belief.

[Signed] DR. FRIEDRICH JANSSEN

4. DEFENSE TESTIMONY AND AFFIDAVITS

TRANSLATION OF LEHMANN DOCUMENT 76
DEFENSE EXHIBIT 1014

AFFIDAVIT OF ADOLF TROCKEL, 30 DECEMBER 1947, CONCERNING HIS EARLIER AFFIDAVIT, PROSECUTION EXHIBIT 1034, AND OTHER MATTERS RELATING TO KRUPP'S EMPLOYMENT OF FEMALE CONCENTRATION CAMP INMATES*

I, Adolf Trockel, department director, residing in Essen-Margarethenhoehe, Im stillen Winkel 4, make the following affidavit for the use of the Military Tribunal in Nuernberg. I know I shall render myself liable to punishment if I make a false affidavit.

In September 1947 I signed an affidavit drawn up by the prosecution on the basis of an earlier cross-examination concerning the

* Trockel's earlier affidavit (NIK–11676, Pros. Ex. 1034) is reproduced above in section VIII F 2.

520 Hungarian Jewesses formerly employed with Krupp. This statement actually contains nothing false, which is why I signed it. However, upon closer examination of all the statements deposed by me meanwhile in connection with the trial, I now have some misgivings that the statement concerning the Jewesses as quoted from the point of view of the prosecution in its brief and particular form may admit an interpretation which I did not want to be read into the statement. The chief portion of the statement concerned reads:

> "* * * these 2,000 women were quartered in Gelsenberg in four large canvas tents. They were very poorly clothed: chemise, pair of knickers and a light gray overcoat, and they wore very poor shoes. In my report to Mr. Ihn I had pointed out that the women in question were of a very slender build and that they were not fit for heavy work. In spite of my rather negative report, 520 of these women were brought to Essen from June to August 1944 to be employed in various plants of the firm * * *."

If this passage were interpreted by the prosecution in the sense that at that time it was automatically in the power of the Krupp firm to take over or refuse the Hungarian Jewesses, this interpretation would be erroneous. The actual situation was this—

When Mr. Ihn ordered me, approximately in the middle or at the end of July, to have a look at the 2,000 Jewesses assigned for clearing jobs after an air raid at the Gelsenberg-Benzin A.G., in Horst near Essen, the assignment of 520 concentration camp women had already been decided upon by the competent official authorities, but it had not yet been determined where they were to come from. My mission at Gelsenberg, therefore, could only be of an unofficial and purely informative nature, since the choice and the allocation of the women was not handled by Labor Allocation A under Mr. Ihn, to which I belonged, but by Labor Allocation I. Some time later the latter organ entrusted labor allocation to Mr. Specht after 520 of the 2,000 who were at Gelsenberg, had meanwhile been allocated. Mr. Specht then informed me that among the Hungarian Jewesses from Gelsenberg there were sufficient robust women qualified for labor allocation, contrary to the opinion concerning my first impression set forth in my deposition.

Under these circumstances, in my opinion, the firm management had no pretext for refusing to take over the Jewesses.

Following the very heavy air attack upon the plant, the 2,000 women lived and worked at the Gelsenberg-Benzin A.G., firm under especially unfortunate conditions. They could not have

been worse, in my opinion. As I then learned from Mr. Dolhaine, the 500 women considered it an improvement in their fate when they came to Krupp. Their chief fear was that they would be returned to the concentration camp. Hence later, after their camp on Humboldtstrasse had burned down, they themselves asked permission to reestablish themselves in the cellar rooms of the camp which had remained intact.

Essen, 30 December 1947

[Signed] A. TROCKEL

EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS JOHANN ADOLF TROCKEL[1]

DIRECT EXAMINATION

* * * * * * *

DR. WOLF (counsel for the defendant Lehmann): In one of the other affidavits (*Lehmann 76, Def. Ex. 1014*)[2] you testified on another affidavit which you gave to the prosecution. Now this prosecution affidavit is in book 38 of the prosecution, on page 87. It was given exhibit number 1034.[3] With regard to this affidavit I would like to ask you one question. You were at the time sent to Gelsenberg in order to inspect the Jewish concentration camp inmates, is that correct?

WITNESS TROCKEL: Yes.

Q. Please tell us in a very few words how you found the Jewesses; what did they look like?

A. The Jewesses in Gelsenberg, 2,000 of them, were employed after a very heavy air attack on the Gelsenberg-Benzin plant. They were employed in clearing away debris in the heavily damaged parts of the plant. I also inspected their tent camp which had been put up by the Organization Todt. The accommodation was very primitive. They only had tents. They had only scanty and primitive clothing; and at that time their hair was still fairly closely shorn.

Q. What kind of work did they do?

A. As I said, they were clearing away debris after a very heavy air attack.

Q. Was that work very heavy?

A. In my opinion it was exceedingly heavy work.

Q. You considered the work and the way they were accommodated was bad?

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[1] Complete testimony appears in the mimeographed transcript, 13 and 21 May 1948, pp. 7700–7717; 8973–9004.

[2] Reproduced immediately above.

[3] Reproduced in section VIII F 2.

A. Yes.

Q. At a SAI [special labor allocation engineers] meeting, you reported about the result of your visit in Gelsenberg. Now this SAI meeting took place on 19 June 1944. The minutes of that meeting are in prosecution document book 38, page 11, Document NIK–9806, Prosecution Exhibit 1020.[1] Is it correct that at that meeting Dr. Lehmann was not present?

A. At that meeting Dr. Lehmann was not present. I alone was there.

Q. Did Dr. Lehmann often attend SAI meetings?

A. As far as I remember, Dr. Lehmann only very occasionally attended those SAI meetings. As far as I remember, he really attended only a few times when they first began.

Q. In that meeting you said you thought the Jewesses were too weak. In your affidavit (*NIK–11676, Pros. Ex. 1034*)[2] you call them rather delicate and small limbed. What did you mean by that?

A. By calling them delicate and small limbed, I meant to point to the fact that they were of rather delicate build as compared to the Polish and eastern women who worked at our plant and who were usually rather robust.

Q. Had Krupp any influence concerning the allocation of these Jewesses?

A. I don't know the background of this allocation of Jewesses. All I know is that SS Colonel Pister, who was commandant of the Buchenwald camp, paid a visit to Essen, and Mr. Ihn told me one day that one of the higher Berlin offices, as far as I remember he mentioned one of the main armament offices or main rings—I do not know the exact names of these offices because they had nothing to do with my work—but at any rate Mr. Ihn told me that one of the main rings or main armament offices had recently been making very pressing claims, and that Krupp should at least employ concentration camp inmates, since they made such great demands for labor. Other plants had been having concentration camp inmates for quite some time.

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CROSS-EXAMINATION[3]

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MR. RAGLAND: Do you mean to state that the Krupp firm itself did not ask to have female concentration camp inmates allocated to it?

WITNESS TROCKEL: No, not on their own initiative. Certainly not.

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[1] Reproduced in section VIII F 1.

[2] Reproduced in section VIII F 2.

[3] The cross-examination was conducted before Commission I of the Tribunal; the direct examination before the Tribunal.

Q. Do you mean to state also that the Krupp firm did not seek to have the Hungarian Jewesses allocated to it?

A. There again I think I can say that they had no influence on the allocation at all.

Q. Witness, you attended various meetings, did you not, between Krupp officials and SS officials concerning the employment of female concentration camp inmates?

A. I did attend two such meetings. At one occasion with SS Colonel Pister and once with SS Captain Schwarz, in the absence of Dr. Lehmann.

Q. The meeting with Schwarz took place in July 1944, did it not?

A. Yes, that might be correct. I don't remember the exact date.

Q. Do you recall who else was present at that meeting?

A. Together with Schwarz? Let me see—I think Mr. Kupke attended.

Q. As a matter of fact you wrote a report concerning the meeting, did you not? (*D–238, Pros. Ex. 1019.*)*

A. Yes.

Q. Do you recall what you said in that report?

A. I don't recall the details; but I think that it was only a comparatively short survey of the visits to various plants where these inmates were to be allocated.

Q. Did you not in that report refer to requests made by the Krupp concern for female concentration camp inmates?

A. As I said, I cannot recall the contents of the report exactly. Maybe you would be kind enough to let me see it.

* * * * * * *

Q. And what you stated in the file note can be taken as true, can it not?

A. Yes.

Q. Witness, did you go and inspect the Hungarian Jewesses before they were brought to the Krupp firm?

A. Yes.

Q. Who sent you to inspect the Hungarian Jewesses?

A. You mean the selection of the Jewesses at the Gelsenberg-Benzin plant?

Q. Yes.

A. It was Mr. Ihn who sent me there.

Q. You went there?

A. Yes.

Q. And you came back and made a report against the employment of Hungarian Jewesses. Is that correct?

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* Reproduced in section VIII F 1.

A. The report did not say anything against the employment of Jewesses; that is an exaggeration. The only thing I reported on was the condition the Jewesses were in, their general appearance, their shoes and clothing. I stressed specifically that they were small-limbed people, and if you had my file note of that period you would see from it that I made a definite comparison by saying they were not like the strongly built Polish and eastern female workers.

Q. When you got back, with whom in the Krupp firm did you discuss the results of your inspection?

A. As I have just told you, I reported to Mr. Ihn, and I made also a short file note with regard to the matter; I suppose that you have it.

* * * * * * *

Q. Well, notwithstanding your objective report, the Krupp firm employed the Hungarian Jewesses, is that correct?

A. Yes. I told you I considered them unfit for assignment for heavier work, but the firm could not refuse these Jewesses. I was quite convinced of that. If, therefore, they assigned them to lighter work—that was not my task, that was the task of the Labor Allocation Office A—then there could be no objection. Later on Mr. Specht, who was really the first to examine these women—my examination in Gelsenberg could only be very superficial, to give me some sort of idea—this Mr. Specht, however, who had later on to assign them to work, told me that contrary to my report there were certain women among them who were quite fit for assignment.

Q. Did the Krupp concern send for training a number of its women employees to have them trained as guards—as SS guards in order to guard the Hungarian Jewesses?

A. Sent away? No, that is wrong. These German women voluntarily—and I stress that specifically—voluntarily joined the SS, most probably because the conditions for these women, as compared with their former positions and wages, were particularly favorable. I ask you to think this over: If an auxiliary worker was getting 70 pfennigs an hour and then was offered a monthly wage of about 200 marks, plus food and lodging, and 1 or 2 days per week free, that, after all, was an incentive for these people.

Q. Who gave these women the opportunity to volunteer for this work?

A. At the present time I can't tell you whether the plant managers were told that this possibility existed, and that they should give instructions to their plant leaders to find out whether anybody wanted to join, or whether the plant leaders were told to do that in writing. Either may be right; I couldn't tell you.

* * * * * * *

Q. Witness, did you not state in an affidavit executed 24 September 1947 (*NIK–11676, Pros. Ex. 1034*)[1] that the SS would not assign the Hungarian Jewesses to the Krupp firm until the Krupp firm had engaged 45 women who would join the SS and be trained by them as guard personnel?

A. Yes, that was a condition.

Q. And that is a correct statement?

A. Yes, that was a condition made by the SS.

Q. And if the 45 women, or a sufficient number of women, had not been sent for training as SS guards, the Krupp firm would not have received the female concentration camp inmates, would it?

A. That may be so.

* * * * * * *

EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS GERHARDT MARQUARDT[2]

DIRECT EXAMINATION

DR. WOLF (counsel for the defendant Lehmann): Witness, I would like to explain first of all the two lights on the witness box. If the yellow light comes on it means please speak slowly; if the red one comes on, please stop altogether. Please make a little pause between my question and your answer, so that the interpreter can follow you. Have you understood that?

WITNESS MARQUARDT: Yes.

Q. Please give the Tribunal your full name.

A. Gerhardt Marquardt.

Q. When were you born?

A. On 30 May 1904 in Poznan.

Q. Did you work at Krupp's?

A. Yes, I was employed at Krupp from 1920 to 1947.

Q. Twenty-seven years you mean?

Where did you work during the war?

A. During the war I worked in Rolling Mill II; but I also worked in some other plants during the war; for instance, in foundry IV.

Q. How many years did you work in Rolling Mill II?

A. About 5 or 6 years; I can't say exactly.

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[1] Reproduced in section VIII F 2.

[2] Complete testimony is recorded in the mimeographed transcript, 12 and 13 May 1948, pp. 7511–7531; 7638–7700.

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Q. Did you work there at the time when the Hungarian girls were employed there?

A. Yes.

Q. Was that in the summer of 1944?

A. Yes.

Q. For how long?

A. Right until the end.

Q. What do you mean by the end?

A. I worked in the plant right to the end, when the Hungarian Jewesses had already left.

Q. Were you able to observe the girls at their work?

A. Yes, I saw them not only in Rolling Mill II, but also in the welding shop, and in the electroplating shop. I visited them quite frequently.

Q. Did you have any personal contact with the girls?

A. Yes.

Q. Of what kind?

A. I worked in the annealing installation of Rolling Mill II. I was a machinist there. When the girls were brought to the factory in the morning, I was at the gate and greeted them. Later on, the group was split up into smaller groups in order to work in the various departments.

* * * * * * *

Q. Witness, you said you had personal contact with the girls. In which way?

A. When the girls were employed in our plant, I often gave them bread, and some articles of clothing, stockings, whatever I could get, because their own clothing was so very inferior. This became known, and all the girls used to come to me to ask if I couldn't get them something or other. Whatever I could do, I did for them; above all for Katz Rosa.

Q. You mean Rosa Katz?

A. Yes, Rosa Katz. She asked me whether I could get some medicine. She brought a prescription from a French woman doctor who was probably also a Jewess, and she asked whether I couldn't get her the medicine.

Q. And did you do so?

A. Yes. She also asked me for a few cigarettes which she could give the French doctor, and I also gave them to her; and I got the medicine for her too, just in order to help the inmates housed in Humboldtstrasse camp, because they could not get medicines in the camp.

Q. Mr. Marquardt, we have to be fairly brief, so please answer my questions as briefly as you can, but slowly. You just men-

tioned a name, Rosa Katz. Was that one of the girls who later on escaped?

A. Yes.

Q. How many girls escaped?

A. Six.

Q. After they had escaped where did they go?

A. One of the workers in Rolling Mill II had promised to take them in. He didn't do so in the end because he thought it was too early, and he was afraid he would be found out. So, one night when I came home from the night shift, and Rosa Katz knew where I lived, near the Jewish cemetery, she came to me. Unfortunately my house was destroyed and I lived in a little hut in the garden. It just so happened—

Q. Mr. Marquardt, please tell me, you took those girls in?

A. Yes.

Q. Are you married?

A. Yes.

Q. Was your wife in agreement?

A. My wife didn't know anything about it beforehand. I hadn't told her about it; the girls hadn't been to my home. The first night I put them into the mortuary in the Jewish cemetery, in the cellar, but I said to the girls then that they couldn't stay there for any length of time, so at 1 o'clock at night I got them out. Around 3 o'clock a bomb fell and the place was destroyed. Then I put them into another house that had been gutted, without telling my wife. I kept them there for about 2 weeks.

Q. Mr. Marquardt, why didn't you want your wife to know about it?

A. Well, those things had to be kept secret; I had to be very careful in case they found out, because the SS would surely have hanged me. The SS had said, "If we ever find the man who is giving shelter to the girls, we will certainly hang him."

Q. So, you didn't tell your wife merely because you didn't want to have helpers and people who knew about it, not because your wife would have blamed you for it?

A. No.

Q. And after all it was a dangerous thing to do at the time?

A. Yes.

Q. Did you give food to the girls?

A. Yes.

Q. What kind of food did you give them? You didn't have much yourself?

A. I procured some potatoes which had been kept in the gas boiler in Essen that had been damaged, and it was used for storing potatoes. So I took some potatoes out of it, and I myself had

some potatoes too which I could give them. I gave them some bread; and I later slaughtered a sheep some of which I gave the girls.

Q. How long did the girls stay with you?

A. Until the Americans came into Essen. I can't tell you the exact date.

Q. The girls were very grateful, I am sure?

A. Yes, they were. I am still corresponding with some of them, and one of them sent me a parcel from America last week.

Q. Tell us the name of that girl?

A. Miss Roth.

Q. Were there two sisters Roth?

A. Yes. I even have the letter with me which she wrote me.

Q. Oh, I quite believe you. So one might say that you acted to these girls like a guardian, and you really had their confidence?

A. Yes, on holidays—

Q. I will ask you about details later on. Witness, first of all you observed the girls in two plants, in Rolling Mill II—

A. In Rolling Mill II, and also in the electroplating shop.

Q. You worked with them for weeks, and you had an opportunity to have long talks with them?

A. Yes.

Q. Please tell me then what did the girls tell you about their fate, while they were at Krupp?

A. Well, they said they had quite liked it at Krupp. At any rate, they were glad to have left the Auschwitz camp, and they told me that at Auschwitz people had been incinerated, but I didn't want to believe it because I hadn't had any previous knowledge about Auschwitz. However, when the girls told me that, I had to believe them. They said that they presumed their parents were all dead.

Q. So, the girls preferred being with Krupp rather than at Auschwitz?

A. Yes.

* * * * * * *

Q. Did the SS guards come into the plant with the girls?

A. Yes, they did. The SS female guards brought the girls to the plant and stayed there until they had to take them home to the camp.

Q. So the male guards were at the camp?

A. No, also at the plant. There was one male guard.

Q. And apart from that there were female guards?

A. Yes.

Q. Were they former employees of Krupp?

A. Some of them, but not all of them; but at any rate they had not been employed in Rolling Mill II.

* * * * * * *

Q. Were the girls driven to work?

A. No.

Q. Were they free to arrange the work among themselves?

A. Well, they had to go by certain galleries when they carried those iron sheets away, but they were not told how many to take away. They went at their own slow speed, and I couldn't say how many—I imagine that they carried eight or nine of those corrugated iron sheets during the day.

Q. You mean eight or nine per girl?

A. No, two or four girls together.

Q. So in other words, every two or four girls carried eight or nine iron sheets during the day?

A. Yes, that's right.

Q. Do you know of any other work they did?

A. Well, they sawed wood.

Q. You already mentioned that.

A. They liked doing that. There were two detachments with a long saw, and they sawed the wood into small pieces ready for the gas generators. Two of them would then slowly carry the wood away. I often went upstairs where they brought the wood to the office. I would talk with the girls there. There was a stove with a fire in it where they would get warm during the day, and nobody objected to that either.

Q. You said that the girls were not driven to work?

A. That's right.

Q. Does that only refer to the Krupp employees, or do you also mean the SS guards?

A. I mean the German employees at Krupp.

Q. What did the SS guards do, were they the same, or did they have a different attitude?

A. The SS guards had a rather different attitude, but the girls were under the supervision of the German employees. There was a foreman who was in charge. The SS female guards only had to see that the girls did not run away from the factory. But there were extra German foremen to allocate the work.

Q. And those German foremen would not suffer any interference by the SS guards?

A. No.

Q. Were there not some fanatic Nazis in the plants who sometimes used pressure?

A. Yes, of course. We even had to suffer from them ourselves.

Q. You mean they were everywhere?

A. Yes.

Q. But in your plant they didn't have much to say?

A. No.

* * * * * * *

Q. Were the girls always very hungry?

A. Well, of course, if one moves around all day it is natural that one should be hungry. After all, we were too. But they often got a little extra food through other employees. One or the other might give them a piece of bread. I personally often brought potatoes, and particularly the Roth sisters and others even fried potatoes in the plant.

Q. Well, you need fat for frying potatoes, don't you?

A. Yes, I got that for them too. I sometimes killed a rabbit and took the fat to the girls. I even gave them a frying pan.

Q. Well, I suppose at that time anybody might have been able to use some additional food, but I would like to hear from you your own impression. Do you think that the girls had enough with the food they received there, taking into consideration the conditions at that time?

A. Well, I am sure they could not have had enough, but on the other hand conditions were such that we couldn't help. We were in the same position. Through the air raids and the destruction I often went without my midday meal.

Q. Now, as long as the factory was still in existence, did the hot midday meal arrive regularly?

A. Yes. Usually it arrived at 12:30 or 1 o'clock.

Q. Now, if any girl was particularly industrious, would she get anything in addition?

A. Yes, I heard it mentioned, but they were supposed to have that addition in the camp. Whether they actually received it, I don't know.

Q. Who told you about that?

A. Rosa Katz told me. Others, too, mentioned it.

* * * * * * *

Q. Witness, during yesterday's session we were discussing the food of the Hungarian Jewesses. You told us that the girls had regular warm noon day meals at the plant. That meal consisted of vegetable soup, and this applied to the time the plant had not been destroyed by air raids.

A. Yes.

Q. Now, what change was there after the plant had been damaged?

A. The girls did not get their meal regularly at the same time.

They may have had it at 2 o'clock, but they did get something to eat at the plant. It was always fetched.

Q. Therefore, nothing changed in the fact that they had a daily meal, only the time at which they received it varied?

A. Yes.

Q. Did that apply only to the girls, or did that apply generally to the other employees?

A. That applied also to the French workers, and to us, the German workers.

Q. Do you know of any cases where as a measure of punishment the girls did not receive a meal?

A. Yes, if any of the girls had offended in that they didn't work as much as they should have, or had been standing around idly, or talked to Germans, and if the SS women guards had seen it, that fact was reported at the camp and their hair was shorn in the shape of a cross at the top of their heads.

Q. My question was really whether, as a measure of punishment, a meal was withheld from them?

A. Yes, well that happened also. The evening meal at the camp, not the meal in the plant, was withheld from them and they had their hair shorn.

Q. Who arranged for that?

A. The SS authorities in charge of the camp.

* * * * * * *

Q. Mr. Marquardt, you told me yesterday that no German employees ever ill-treated any of those Jewesses; is that quite correct?

A. Yes. But the SS women guards did.

Q. Well, what would they do?

A. If the girls were standing about, or if they wanted to go to the washroom, or if they did go without asking permission first, it happened now and then that one or the other of the women guards would walk over to the girls and kick them or slap their faces. Whenever I saw that, I would walk over and ask the SS women if they weren't ashamed of themselves because, after all, these girls were only women.

Q. What was the attitude of the other employees?

A. Well, they were also indignant about such treatment, but they did not dare say anything. A Party member in uniform once came to me when I was standing with Miss Rosa Katz at the furnaces, and I had given her a bag of potatoes, about 10 pounds; well, he came up and said, "You had better look out, otherwise I'll shoot you." I just looked at him and said: "You poor kid."

Q. So, the SS would occasionally do things like that, but certainly none of the German employees of Krupp would do it?

A. No.

Q. Now, if the German employees had treated the Hungarian Jewesses badly, or even ill-treated them and you had noticed it, would you have reported it to anybody?

A. Yes, I would have gone to the higher plant administration, because since 1927 I have been a member of the Red Cross and I have always followed the principle that men should always be "noble, helpful, and good."

Q. So, you yourself would not have allowed any ill-treatment of anybody?

A. No.

Q. But you couldn't do anything against the SS?

A. No, I couldn't interfere actively.

Q. Did you at any time see anybody of the Directorate of Krupp at the plant?

A. No.

* * * * * * *

Q. Now, just one more thing in conclusion. I have told you that the defense is only interested in getting a complete, correct, and true picture of the conditions at the time. If anything did happen which was a violation of the laws of humanity, then the offenders must be called to account. This trial is concerned in finding out to what extent the defendants here are responsible for any improper conditions. That is why I ask you once more: Are you still today of the firm opinion that the treatment of those unfortunate girls was proper as far as the plant and the German employees of Krupp are concerned, and that any excesses were committed by the SS?

A. Yes.

Q. And you know that not only from your own observation, but also from the tales the girls told you before and after their escape, since they had particular trust in you, for quite understandable reasons?

A. Yes.

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PARTIAL TRANSLATION OF LEHMANN DOCUMENT 116 DEFENSE EXHIBIT 1054

EXTRACTS FROM THE AFFIDAVIT OF DEFENSE AFFIANT THEODOR BRAUN, 18 FEBRUARY 1948, CONCERNING FEMALE CONCENTRATION CAMP INMATES WORKING FOR KRUPP IN ESSEN*

I, Theodor Braun, Engineer, of Bad Oeynhausen, Werste 437, having been duly warned that false statements on my part will render me liable to punishment, declare the following on oath, to be used as evidence especially before the American Military Tribunal at Nuernberg.

During my 27 years service with the firm of Friedrich Krupp, Essen, I was plant leader from 1 September 1943 for the plant departments for dressing, refining, and heat treatment (annealing and hardening) in Rolling Mill II. The light physical work required at many working places resulted in more and more German women being employed in these plant departments at the beginning of the war, their total number having risen to over 100 at the end of 1943. In the actual rolling mill departments (bases, heating furnaces, and annealing beds) the women never worked.

In summer 1944 the requests made by the plant to the labor allocation office were for over 300 workers, who should be predominantly men. Explanation of the request—

1. Constantly increasing withdrawal of workers for the armed forces.
2. Pressure to maintain the required programs.
3. Increasing loss of workers through air attacks.
4. Hardly any allocation of new manpower.

As a final reply to my request I was informed that the firm was to be assigned only concentration camp inmates and these would be Jewish women. Soon thereafter followed the inspection in my presence of Rolling Mill II by SS leader Pister and Mr. Trockel from Labor Allocation Office A.

SS leader Pister found the nature of the work to be suitable for the allocation of female inmates, particularly since these were jobs at which hitherto German women also worked, or had worked. Gates and other exits were to be guarded by SS guards during working hours. Contact except in line of duty with the inmates was strictly forbidden to all employees by the SS on threat of punishment. Assignment of work was taken over by the plant.

In the middle of August 1944 Mr. Dolhaine of the office for

* Extracts from the cross-examination of Braun are reproduced immediately below.

labor allocation, Mr. Georgy of small construction plant II, Mr. Hammerschmidt, and I from Rolling Mill II, drove to Gelsenberg-Benzin to select the strongest from the female concentration camp inmates billeted there who seemed likely to be of use for our plant.

The decision that 520 inmates had to be taken by the Krupp firm had already been reached at another office. During these negotiations no one from the plant was present.

On the plant grounds of Gelsenberg-Benzin the inmates were billeted in a number of tents. The camp director was an elderly SS leader whose name and rank I no longer recall. Soon after our arrival the inmates came in from their jobs, in groups with their guards, and split up to go to the different tents. We went into the camp with an SS assistant leader. The guards had the inmates lined up in several rows. The latter wore simple smocks of gray material and a white-gray band with a number on the upper arm. All wore their hair cut short, but it had already grown somewhat again. Footwear consisted of galoshes, double-buckled shoes, or worn-out shoes, and must be described as poor.

We walked up and down the rows and selected those inmates who seemed to be the strongest. These had to assemble before the camp and the numbers were then recorded by SS guards. While making our selections we soon noticed that some of the women or girls among those remaining cried, and that others in pairs or larger groups held one another's hands. When we asked we learned that these were members of families who would like to stay together, and that we had separated them, not realizing the situation. That this happened was by no means our intention. The camp director agreed with our suggestion to allow relatives or friends to be together. He stated, however, that in that case we would necessarily have to take along some younger and weaker inmates. We agreed and pointed out that they could be employed for certain types of light work. This explains why there were also a number of younger and weaker girls among the 520 inmates selected.

Mr. Hammerschmidt then went to the previously selected inmates outside the camp and exchanged single individuals for some in the camp who had been separated. After that we no longer separated any groups, and had to reject various apparently good workers since we could not take too many of the younger and weaker inmates.

Aside from some shouting of orders by some SS men when various inmates ran around, no harsh word was heard throughout the selection. Nor did I see or hear that any inmate was struck or otherwise ill-treated before or in the camp during our stay.

I later learned that there were inmates among those sent to the Krupp firm whom we had not selected, whereas some whom we had selected remained in the SS camp.

* * * * * * *

In the following reports one must make a general distinction between the period of normal production and the period after 25 October 1944, the date of the destruction of the plant installations through bomb attacks.

Working Hours of the Inmates before 25 October 1944

Days: from 0600–1645 hours, including 45-minute recess.
Nights: from 1800–0600 hours, including 60-minute recess.
Sundays: 0600–1415 hours, including 15-minute recess.

No women were employed on Sunday afternoons or at night from Sunday to Monday. Only part of the inmates were required to work on Sundays. German employees had to work at least every second Sunday.

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Working Hours of the Total Staff, including the Inmates, after 25 October 1944

Days: from 0700–1600 hours, with 45-minute recess.
Later: from 0800–1500 hours, with 20-minute recess.

On special occasions, various groups of inmates also worked on Sundays from 0800 to 1415 hours, with a 15-minute recess. Night work was no longer possible since there was no artificial lighting of any kind.

Shift hours from 0600 to 1900 hours were never customary in Rolling Mill II. I also point out that in the entire period when the inmates worked with us, there was hardly a shift when the work was not completely at a standstill during shorter or longer air raid alarms. These air raid alarms often lasted several hours.

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The SS had reserved for itself the medical care of the inmates. During normal production time the inmates were afforded the opportunity to have a warm shower and wash in the works washroom every Friday morning. This took place during working hours, although German workers were prohibited to bathe during working time. That those shower and washing opportunities ceased to exist after the air raid of 25 October 1944 was not our fault. For bathing, showers, and thorough washing, for almost everyone living in the bombed area, there was no water available for months, since almost all pipes had been damaged by bombs. One had to be thankful for a single bucket of water for the most

urgent needs, obtained, after hours of queuing, from a tank-car, or from some water pump which was still standing or had been quickly repaired in one or other part of the town.

Every inmate received soap powder and a cake of soap from the plant every month. Sometimes an extra issue of soap powder and sand was given for shower baths. Prior to 25 October 1944 the plant toilets for inmates were in good order. Additional installations were being erected. Later the inmates used the toilets in the destroyed plant camp.

The provision of clothing for the internees was exclusively a matter for the SS command. The clothing of the inmates was insufficient. Due to the danger of escape, the plant was not allowed to issue additional clothing. The camp leader, SS Unterfuehrer Rick, had understanding for our pressing for better clothing and footwear, but could as he told me, only submit corresponding applications to his superiors. Mr. Pister, higher SS leader, inspected the plant camp before 25 October 1944 when it was being extended, and he found it suitable. When the inmates' clothing was mentioned, he declared that two wagons with clothing items had become lost on the way. Besides the gloves and mittens already mentioned, the inmates received from the plant, slacks for the women crane operators, and a number of twin buckles, i.e., shoes with wooden soles and leather fronts and tops with a raised piece of canvas held by means of two clasps. The amount I have forgotten. It has to be considered that the plant had no stocks in hand and that fresh supplies were very rare and even then very small. Clogs were at that time and even today are rationed. In the winter of 1945 the SS, made one issue of winter coats, jackets and skirts, to the inmates.

The items had to be collected from Bochum by lorry. At the time I tried hard to obtain a lorry from the Krupp motor pool. Messrs. Hartmann and Rosenkranz of the transport office showed every sympathy for the matter and, in spite of the greatest difficulty, had the things fetched. On account of a breakdown in the streetcar service and the bad winter weather, the problem of clothes and shoes for the internees became increasingly more urgent. After consultation with Mr. Rick we employed skilled female leather workers from among the internees for shoe repairs, providing them with implements and tools. On our initiative the internees were supplied with a blanket each by the camp to protect them against the weather on their long walks to and from work.

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[Signed] THEODOR BRAUN

EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS THEODOR BRAUN BEFORE COMMISSION II[1]

CROSS-EXAMINATION

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MR. THAYER: When you employed prisoners of war in the plant, didn't you have to get the approval of the counterintelligence agent to use them in a certain place?

WITNESS BRAUN: No.

Q. Who was Mr. Trockel's supervisor?

A. As far as I know, Dr. Lehmann.

Q. You explain in your affidavit (*Lehmann 116, Def. Ex. 1054*)[2] you and some of the other Krupp men went to Gelsenberg to select the strongest concentration camp inmates to work at Krupp, is that correct?

A. Yes.

Q. How many inmates had Krupp been trying to get originally?

A. I only know of the 520 which we were supposed to select there. Whether more had been applied for, I do not know. I don't know about the preliminary conversation.

* * * * * * *

Q. How old were the youngest of these concentration camp inmates whom you took to Essen?

A. I think 14 years old.

Q. Did you see some of the SS men in the camp carrying whips?

A. I didn't see that.

Q. Did you see any of the SS men or the SS women at Essen, who were guarding this group of 520 for example, carrying whips?

A. I never saw that.

* * * * * * *

Q. How long did it take these girls to march from the camp at Humboldtstrasse to the plant?

A. One and a half to one and three-quarters hours.

Q. And during what you refer to in your affidavits as the normal period of production, up until the air raid of October 25, they had to be at work at 6 o'clock, is that correct—6 o'clock in the morning for the day shift?

A. The day shift worked from 6 o'clock in the morning until a quarter after five in the evening, or until 1645, that is a quarter of five in the afternoon.

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[1] Complete testimony appears in the mimeographed transcript, 26 May 1948, pp. 9861–9904.

[2] Reproduced in part immediately above.

* * * * * * *

Q. You say that the clothing of the inmates was insufficient, and that due to the danger of escape the plant was not allowed to issue additional clothing. You mean that they were kept in rags in order to keep them from running away, and their shoes were kept in bad condition so that they couldn't run very far?

A. To my knowledge of these things, Mr. Pister said at the time that we shouldn't give them any clothing because of the danger of escape. What was done in negotiations with the firm and the SS about the clothing, I don't know.

* * * * * * *

Q. You say that the girls were given a blanket which they wore in place of an overcoat?

A. Yes.

Q. Was this the same blanket which they used to sleep under at night?

A. I can't say that under oath, but I can assume so. I never saw it. Outside of the first day I was never in that camp.

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TRANSLATION OF LEHMANN DOCUMENT 613
DEFENSE EXHIBIT 1112

AFFIDAVIT OF KAROLINE GEULEN, KRUPP WORKER EMPLOYED AS A GUARD OF FEMALE CONCENTRATION CAMP INMATES, 14 APRIL 1948, CONCERNING THE TREATMENT OF INMATES WORKING FOR KRUPP IN ESSEN*

I, Karoline Geulen, Muelheim-Heissen, Schenkendorffstr. 43, know that I am liable to punishment if I make a false affidavit. I declare on oath that my statement corresponds to the truth and was made to be submitted as evidence to the Military Tribunal in the Palace of Justice, Nuernberg, Germany.

I was a worker with Krupp in Rolling Mill II since 1943, and in August 1944 I was required to be an overseer for female concentration camp prisoners. We were called "supervisors" and were subordinate to the SS.

We supervisors had to escort the Hungarian Jewesses between camp and plant and to supervise them during their work in the plant. None of us supervisors carried any weapon or stick.

Until the time when the camp was destroyed by a heavy air raid, I saw that there were sufficient toilets and a washroom.

* Extracts from the testimony of Karoline Geulen are reproduced immediately below.

I never saw that the Jewesses in the camp were ill-treated; what I did see was that the camp leader, Rieck, carried a rubber club.

At the Krupp factory we supervisors worked each day in another section. Thus, I gained a general view of the nature of the work and the treatment in the plant. I never saw any case of ill-treatment or any other treatment degrading to women. Nor did I ever hear anything of this nature.

The Jewesses worked on machines which had been previously operated by German women. I myself worked on these machines before my term as a supervisor. Thus, one of these operations consisted in the following:

The women had to insert iron rods into a machine, the machine returning these rods automatically in another place. Then these rods had to be bundled. This was a light kind of job. The bundles were carried away by a crane.

Another operation consisted in putting iron bars (not iron blocks) of different sizes on stands, which was done by two workers, then grinding down bad spots with an electric grinder. This kind of work I would term as medium heavy work. It had been previously done also by us German women.

When later on, as a result of the heavy air raids, on the plant, debris had to be cleared away the Hungarian women had to assist in the work of clearing. Not only the Hungarian women but the German men as well had to take part in this clearing work. I saw the Hungarian women carry bricks. We supervisors told the Hungarian women repeatedly on this occasion that they should not carry too many bricks at one time.

In my opinion the food was quite good. In the camp they received bread with butter, sausage or cheese. At noon soup was brought to them from the camp. After having taken the Hungarian women back to the camp after closing time, we supervisors gave the Hungarians what was left of our own lunch. It is true this did not happen regularly, yet it did happen frequently.

The women's clothing was first poor, but later became better. Thus, the women received wooden shoes which had partly leather uppers, partly uppers of cloth.

I know of but one case of death that occurred in the camp. It concerned a girl who was killed during an air raid. I cannot state how it came that this girl had not been taken along into the shelter. The raid came all of a sudden in the afternoon while we were in the plant.

Prior to the destruction of the camp, each of the Jewesses had her own bed. Each of them had several blankets, maybe two or three. Each bed was provided with a straw mattress.

Concerning the clearing-up work, I state in addition that the Hungarian women, when carrying the bricks, were walking and definitely not running, nor were they driven in any way. We supervisors numbered about 10–12. We stood close by, but not, to be sure, lined up in a row along which they had to pass; there were not so many of us supervisors as that anyhow. On the contrary, we supervisors repeatedly took part in the clearing-up work at one time or other. Incidentally, I saw myself that the huts in the Humboldtstrasse camp were heated.

Essen, 14 April 1948

[Signed] KAROLINE GEULEN

EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS KAROLINE GEULEN BEFORE COMMISSION I[1]

DIRECT EXAMINATION

DR. HAACK (assistant counsel for the defendant Lehmann): Now would you please state your full name?

WITNESS GEULEN: Karoline Geulen.

Q. When were you born?

A. 3 April 1922 in Essen.

Q. Now I shall confront you with the affidavit which you made out for the defense and which is in Document Book Lehmann No. 3. It has the number 613 and has been offered to the Tribunal. It bears exhibit number 1112.[2] Is that the affidavit that you deposed?

A. Yes.

Q. Have you signed this affidavit?

A. Yes.

Q. Is there anything that you would like to add or correct in this affidavit?

A. No.

Q. Miss Geulen, where were you trained for your occupation as an SS guard?

A. Ravensbrueck.

Q. How long did you stay there for training purposes?

A. Not quite 2 weeks.

Q. Were you instructed as to how you were to behave and to conduct yourself?

A. Yes.

Q. What were you told concerning this?

A. That we were not to beat the women.

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[1] Complete testimony appears in the mimeographed transcript, 25 May 1948, pp. 9548–9562.

[2] Reproduced immediately above.

Q. Was this instruction, when you were actually active as a supervisor, ever repeated to you?

A. No.

Q. Did Camp Leader Rieck ever remind you to keep to this instruction or did he ever tell you anything about your attitude toward the Hungarian women?

A. Yes.

Q. What did he tell you?

A. He again told us we were not to beat the women.

Q. Did you ever witness any maltreatment in the plant yourself?

A. No.

Q. Did Jewesses ever complain to you about maltreatments?

A. No.

* * * * * * *

CROSS-EXAMINATION

MR. FERENCZ: Miss Geulen, how long were you interned by the Germans in Ludwigsburg internment camp?*

WITNESS GEULEN: The Germans? Let me think—about 6 months.

Q. Why?

A. Because we were supervisors.

Q. Because you were a Krupp supervisor and member of the SS?

A. Yes, SS.

Q. You were employed by the Krupp firm in Rolling Mill II from 7 March?

A. Yes.

Q. Until August 1944. Is that correct?

A. Yes.

Q. And at that time the Krupp chief of Rolling Mill II, Mr. Hammerschmidt, told you—

A. Yes.

Q. Just a moment, Witness, just wait until I put my question before you answer it. Now I am asking you if the Krupp chief of Rolling Mill II told you that he was gathering Krupp employees to serve as SS guards for Krupp laborers? Is that correct?

A. Yes.

Q. And then he sent you with some other Krupp employees to Ravensbrueck concentration camp for training. Is that correct?

A. Yes.

Q. What kind of training did you get at the Ravensbrueck concentration camp to enable you—

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* Ludwigsburg internment camp was used as a place of confinement for numerous Germans after the collapse, including many SS leaders and other SS personnel, pending trial or denazification proceedings.

A. I was—

Q. Just a moment, Witness, just let me finish my question. I am asking you what kind of training you got from this concentration camp to enable you to perform your work as a Krupp guard.

A. How am I to understand this question?

Q. You were there you say for 2 weeks?

A. Yes.

Q. What kind of training did you get?

A. We were only told that we were not to beat the women.

Q. So for 2 weeks, every day, 8 hours a day, they told you not to beat the women?

A. No.

Q. Did it take them 2 weeks, 8 hours a day in order to teach you not to beat women?

A. Two weeks? I was only there for not quite 2 weeks.

Q. And after the 2 weeks Krupp requested your return from Ravenbrueck. Is that correct?

A. Yes.

Q. Now, you saw these girls in the Humboldtstrasse camp, did you not?

A. Yes.

Q. Do you remember that the sanitary facilities were so inadequate that the girls had to relieve themselves in the open?

A. Not at the beginning; towards the end, that is correct.

Q. And isn't it true they had no opportunity to wash themselves in the camp?

A. Yes. At the beginning they had opportunities to wash.

Q. But later on they had none?

A. No. Later on they no longer had them.

Q. Do you remember that they were allowed to wash themselves in the showers of the factory, don't you?

A. Yes.

Q. And those who didn't leave the showers in time were beaten, weren't they?

A. I do not know anything about that.

Q. Did you suddenly forget?

A. No.

Q. Do you remember a sworn statement that you gave to Mr. Koessler?*

A. Yes.

Q. And do you remember that at that time you swore that those girls who didn't leave the shower quickly were beaten?

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* The affidavit referred to was not received in evidence.

A. Yes, they were beaten.

Q. So that they actually were beaten, weren't they?

A. Yes.

Q. Now you remember that these girls had to live in the cellar in Humboldtstrasse?

A. Yes.

Q. And it was so cold there and so damp that the beds on which these girls had to sleep were frozen, weren't they?

A. Yes.

Q. And for a long time they had only to sleep on wooden boards. Isn't that correct?

A. I do not know whether they had to sleep on wooden boards. I think they had iron beds.

Q. Do you remember that the camp commander Rieck carried a rubber hose?

A. Yes.

Q. And do you also remember that he carried a long leather whip?

A. Yes.

Q. And do you remember that Rieck was particularly brutal to these Jewish girls?

A. Yes.

Q. And he ill-treated them in an inhumane manner?

A. Yes.

* * * * * * *

REDIRECT EXAMINATION

DR. HAACK: In your affidavit you said that Rieck had a rubber truncheon?

WITNESS GEULEN: Yes.

Q. Now, in cross-examination you stated that he had a dog-whip? Which is right?

A. He had both.

Q. Did he carry both?

A. Well, not both at the same time. On one occasion he would have the one, and on another occasion he would carry the other.

Q. Was it an actual dog whip, or was it an instrument for beating clothes?

A. No.

Q. You stated that the food given to the Jewesses was so insufficient that moved by pity, if you had any food to spare, you gave some of your food to them?

A. Yes.

Q. Was that sympathy with their conditions, or was it just

pity for people who had been expelled from their homeland and had been put in this place and had to work?

A. It was pity for these people having to work there.

Q. Do I understand you correctly that you were merely moved by pity, which has nothing to do with the actual condition of the Jewesses or the food they received?

A. Yes.

Q. In your affidavit you also speak of you yourself as a guard participating in clearing-up work?

A. Yes.

Q. Did you also carry bricks?

A. No.

Q. Were German women also employed in this clearing-up work?

A. Yes.

Q. For the clearing-up work—were German women used for the same work as the Jewesses?

A. Yes.

Q. Did they have to carry just as many bricks as the Jewesses had to?

A. Yes.

Q. You stated that the treatment of the Jewesses was inhuman.

A. Yes.

Q. For what reason? Could you give us details?

A. No.

Q. You said here that no maltreatment occurred in the plant.

A. No.

Q. And what was that particular incident of maltreatment which you spoke about in the washroom or showerroom.

A. Somebody hit somebody else in the face.

Q. Who hit the other person in the face?

A. I did myself.

Q. You hit a Jewess?

A. Yes.

Q. For what reason?

A. Because the others wanted to bathe and she would not come out.

Q. Did you know it was prohibited for you to hit the Jewess?

A. Yes.

Q. Is it correct that you were detailed by the SS in Ravensbrueck to go to Essen?

A. Yes.

* * * * * * *

Q. Were the accommodation conditions in the camp Humboldtstrasse adequate?

A. No.

Q. Why not?

A. Some people had to sleep in the basement.

Q. I think you misunderstood my question. I asked you whether the accommodation in Humboldtstrasse was adequate when the camp had not yet been destroyed. Were you ever in that camp?

A. Yes, we took the Jewesses to that camp.

Q. Did you actually witness such accommodations at the camp?

A. No, I did not see that.

Q. Are you informed that after the heavy air attack the Jewesses were not housed in the basement but in a large room which was part of a large kitchen building?

A. Yes.

Q. Why were the Jewesses taken from this room into the basement?

A. Because this room was destroyed.

Q. Was there no other possibility to house the Jewesses, was that the only possibility?

A. Yes, that was the only possibility.

Q. And what was the reason why the basement was the only place?

A. That was done by the Oberscharfuehrer Rieck.

Q. What was Rieck's reason? Were all the other places where Jewesses could have been accommodated destroyed by bombs?

A. Yes.

* * * * * * *

Q. In cross-examination an affidavit was mentioned which you deposed probably in the internment camp. Is that correct?

A. Yes.

Q. When did you depose this affidavit?

A. It is so long ago I do not remember now.

Q. And how did this affidavit come about, how was it made, did you make it voluntarily?

A. No, somebody from Nuernberg came to see me.

Q. Somebody came to see you then?

A. Yes.

Q. Was everything in this affidavit worded so as you wanted it to be?

A. Yes.

Q. When you composed this affidavit you were imprisoned. Your physical and psychological condition was not too good. Were you ill?

A. I am still sick.

Q. Were you very severely ill?

A. No. My nerves were on edge.

Q. Your nerves were not in a very good condition?

A. No, and they are still not in a very good condition.

Q. That was, if I understand you correctly, at the time when you made this affidavit which I have just mentioned?

A. Yes.

Q. Were you treated for this illness; were you under medical supervision?

A. No.

DR. HAACK: I have no further questions.

THE COMMISSIONER: The witness is excused.

EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS KARL SOMMERER BEFORE COMMISSION I*

DIRECT EXAMINATION

* * * * * * *

DR. WOLF (counsel for the defendant Lehmann): According to your knowledge of the matter, did the firm of Krupp have anything to do with these girls [the Jewish female concentration camp inmates] at all?

WITNESS SOMMERER: In my opinion, any influence concerning these workers was exercised by the firm only as far as their capacity as workers was concerned. Everything else was handled by the State and its executive organization, the SS. I may say also that anything that referred to the Jewesses in particular always had to be approved by the SS first, whether it concerned food, clothing, and also housing. Our decisions were always limited in that direction, that is decisions by the firm of Krupp.

Q. Were attempts made, after the destruction of the billets, to remove the girls?

A. Yes, in the office in which I was working, I often heard that Dr. Lehmann in particular was more and more seriously considering the question of moving them, because the situation was becoming increasingly precarious owing to the development of the war.

Q. Did these efforts by Dr. Lehmann meet with any immediate success?

A. No, because here again the restrictions just described were in the way. All attempts by the firm had to cease at that point, at least at first, where it concerned anything more than the labor capacity of these people.

* Complete testimony is recorded in the mimeographed transcript, 3 June 1948, pp. 11074–11101.

Q. I believe in March 1945, the time had come when the necessity for the removal of these girls became acute.

A. Yes.

Q. Do you remember how this came about?

A. I do not know the details, but I do remember that one day Dr. Lehmann said, "At last, I have managed it."

Q. Do you know what Dr. Lehmann thought on that occasion?

A. Yes; he must have thought, as anyone would who had decided to remain in the danger area, that these human beings should be taken back into the rear area where there was greater safety.

Q. So these women—

A. The women were to be removed from the danger area.

Q. And what gave him that opportunity?

A. As far as I can remember, a general order was issued at the time which said that all foreign workers were to be removed from the danger area.

Q. Do you know that such a regulation was issued by the SS especially for the concentration camp inmates working in the Ruhr area, and that a collective transport was to start from Bochum?

A. Yes. I only became concerned with this matter when the transport was actually to take place.

Q. What do you say about the suspicion which was raised here that the firm sent those girls away so that no witnesses would remain when the Americans arrived?

A. Witnesses of what?

Q. Witnesses of the fact that these girls had been working in the Cast Steel Works?

A. Well I should imagine, and I did then, that the public already knew about it, because—what shall I say—we did not camouflage or hide them. They traveled right through the central part of the city in a streetcar every day and anyone could see them at work and in their spare time.

Q. Do you know that at a certain time before their removal, six of these Jewesses escaped?

A. I heard here that a few of the then camp inmates had reappeared, or that they had contacted some man or other for whom they worked in the plant at the time. I remember that just before their removal, the camp leader told me about the disappearance of some of the camp inmates; but he did not take it too seriously.

Q. You mean then, that the fact of the employment of these girls was so well known generally that there was no reason to hide anything?

A. Yes, that is what I mean.

Q. What do you say about the charge which had been raised here, at least indirectly, that the firm sent these girls back to Buchenwald, although they must have expected that these girls would probably be killed there?

A. We would never have thought of a thing like that; at least I didn't, and I don't think Dr. Lehmann did either. Buchenwald was known to us to be a concentration camp, that is true, but it was the only place to which these people could be sent. Even if we could have determined the place they were to go, where else could we have sent them? Many Germans were also sent to some camp just so that they had a place to stay.

Q. Do you mean to say by this that the firm could not influence the choice of the destination at all?

A. No, not at all.

Q. At the time, or at any time before the collapse, did you know that people were killed in Buchenwald?

A. No, I didn't.

Q. Was this question ever discussed in the circle of your colleagues in Labor Allocation Office A?

A. No, never.

Q. If it had been known there, would you have learned of this too?

A. At least in the course of conversation.

* * * * * * *

CROSS-EXAMINATION

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MR. THAYER: You stated on direct examination that it was ridiculous to believe that one of the reasons for evacuating these women was to prevent knowledge coming out of the conditions in respect to these girls.

WITNESS SOMMERER: Yes.

Q. Do you remember that?

A. Yes, I do.

Q. Are you prepared to say that the German workers, and the population in Essen, knew generally of the bad conditions which you yourself have described in the Humboldtstrasse camp?

A. Well, I cannot imagine anything else than that they knew it. If it did not make the impression on people you expect, this was due to the fact that the people were living in similar conditions.

* * * * * * *

Q. You say that you and Dr. Lehmann constantly intervened

with the SS to have the women evacuated from Essen. Do you remember?

A. Yes, that was during the last days, when I intervened to a large extent?

Q. That is what I want to ask you. When did this intervention begin? When did you commence to intervene with the SS?

A. A few days before the transport actually took place.

Q. Why?

A. Because I had to discuss the details with these people, as I was assigned to them.

Q. Why did you want them evacuated? Perhaps you misunderstood my question.

A. I have already said, for us it was our first duty, as the front line came closer, to remove from dangerous areas all those human beings who were endangered unnecessarily.

Q. Why were the girls' lives endangered unnecessarily there? What do you mean? From being slaughtered by the SS, air raids, shell fire, or what do you mean?

A. No. That they would be blown up by bombs.

Q. When were the first air raids on Essen?

A. Well, let me think—

Q. They were a long while before March 1945, weren't they?

A. Well, compared with the last raids, the first raids seemed like child's play to us. One bomb in one of the last raids did as much damage as a whole squadron of airplanes could have done after days of bombing before.

Q. Were German women evacuated from Essen at that time?

A. No transport left any factory without my making use of every possibility to evacuate Germans.

Q. Wasn't the heaviest air raid on Essen, at any time during the war, on 25 October 1944, the one that destroyed the Humboldtstrasse camp?

A. The raid in March was even heavier, although the one in October had been very heavy. I myself was severely wounded during that raid.

Q. Well, after the one of 25 October whether it was a little heavier or not so heavy as the March raid it wasn't heavy enough, although it destroyed their barracks, to make you think it was dangerous for the women?

A. Of course, we even had to expect further raids. We did not get any rest day and night.

Q. What you are saying is that in spite of the raid of 25 October, the destruction of the barracks, the obvious danger to the women, you left them there until March, until you decided it was a dangerous place and they should be evacuated. Do you

mean to say that?

A. No. Two things had to be considered simultaneously. We had to consider to what extent a worker could help the defense either directly or indirectly, but evacuation was carried out when the places of work were all destroyed. Evacuation depended, of course, on that and because we did not want the people standing around idle while endangering their lives unnecessarily.

Q. So you kept the girls there as long as they were able to work in the plant, is that right?

A. Yes, of course; the war was on. We had to remain there too.

Q. You had no consideration of the danger to these women then as long as they were able to work in the plants?

A. The working capacity of the factory depended on the extent of danger. This overlapped or ran parallel.

Q. What exactly did Dr. Lehmann do to get these women evacuated?

A. He made efforts to get them removed.

Q. With whom?

A. I cannot tell you that, because information to higher authorities and to the outside authorities was kept secret from me and was not part of my task.

Q. When Dr. Lehmann said to you, "At last I have managed it," as you testified a few moments ago—

A. Managed it—

Q. Did he stop talking with you then about this subject?

A. No, when he had managed it—

Q. Is this all he said about the whole subject matter, "At last I have managed it; go and get a train, and get them out of here?"

A. Of course; that is all I had to know.

Q. If he said, "At last I have managed it," that implies that he had made previous attempts.

A. Of course.

Q. Did you understand that he had some particular reason for wanting to evacuate the women?

A. It was my opinion that he had done this from purely reasonable and humane considerations.

Q. He gave you no information directly of what his reasons were?

A. No.

Q. You didn't ask him?

A. I never put a question when something is a matter of course.

Q. Did you know that Essen was about to be occupied by Allied armies, or were you reasonably sure of it?

A. Well, we expected anything. The enemy was in front of

the gates of the city. I wasn't a general, but I expected them to come soon.

Q. Did you assume also that the girls would be liberated if they were taken alive by the Allied armies?

A. I assumed that the war would intensify in such a manner that the enemy would only have been able to free Jewesses who had been killed by bombs; things looked very grim to me, for Essen was not to be surrendered without a battle.

Q. Hadn't you heard the rumor that the girls were to be murdered by the SS?

A. No, no; that is quite new to me.

Q. Didn't you hear it on the train from the girls themselves?

A. No.

Q. Didn't you hear it from Trockel's daughter who accompanied you on the train?

A. From whom?

Q. From the daughter of Mr. Trockel who accompanied you on the train.

A. No, I haven't seen her since. I really only put her on the train, and then I was informed that the train had arrived in Weimar.*

* * * * * * *

Q. You say that Lehmann instructed you to assist the SS in lining up a train, is that correct?

A. Yes.

Q. Why was it the SS couldn't do it by itself?

A. This was quite simple. For an ordinary human being it was so difficult to find his way around in the industrial district that one had to lead such people, and these difficulties were increased by bomb damage to the traffic routes.

Q. Is it correct, Mr. Sommerer, that the SS didn't care whether they got the girls out of Essen or not, and they didn't care whether you got a train or not?

A. Yes, they did. When I traveled to Bochum, I talked to the local SS leader there, during negotiations with some railway official, but this good man said, "I can't do it"; and only when I pointed out all kinds of ways to him, we succeeded at last in lining up a train in sections. This was an idea which sometimes does not occur to an official.

* * * * * * *

Q. You knew the terminus of the train, didn't you, where it was going to?

---

* The Buchenwald concentration camp was located near Weimar and was sometimes referred to as the "Weimar-Buchenwald concentration camp."

A. The train was prepared ot go to Weimar. I had to tell that to the German Reichsbahn.

Q. How many sick girls were there on the train?

A. I can't tell you the number.

Q. How many sick girls were there in camp before you left for the train?

A. Well, the sick ones were placed on a truck. I know that.

Q. That is one truck?

A. Yes, one truck. It was a two or three-ton truck.

* * * * * * *

Q. You mean to say you had a train made up, you made arrangements for getting coaches, you notified the station master where it was to go to, but you don't know how many people were to go on the train?

A. I knew the entire figure, of course. I ordered the coaches.

Q. What was it?

A. Five hundred, I believe, 500 or 550, something like that. Some more joined later.

Q. How many did they take from the Bochumer Verein?

A. If I remember, according to what the SS men told me at the time, there were something like 1,800. I seem to remember something like that.

Q. Didn't you make arrangements for all of these girls, 500 plus 1,800?

A. Yes.

Q. So there were about 2,300 on this train?

A. Approximately two thousand, or two and a half thousand persons were being moved.

Q. Those were both men and women?

A. Men and women, of course.

Q. And you made the arrangements for all of them?

A. Yes.

Q. Why did you just say that there were only 500 who went?

A. Well, when I said 500, I was talking only about the Jewesses coming from Essen; and the other number was taken along from Bochum.

Q. And can you estimate again how many coaches would you have on the entire train for the entire 2,500 people?

A. Well, at the time I had worked it out with the SS men, and I said before—

Q. Please, if you can remember, please answer the question without taking a long time to reconstruct an answer which might be reasonable.

A. About 50 coaches.

Q. Lehmann told you, didn't he, that he had been instructed by Ihn to send these women back to Buchenwald?

A. He did not tell me that in that way.

Q. I did not say he used those words. How did he tell it to you?

A. He said these women have to be removed. I said that already; and I assumed from his words that his efforts had been very difficult in that respect, and that he only managed it when a general order or a general regulation was given for the removal of foreign workers from the danger area and the Ruhr area, thus making it possible.

* * * * * * *

G. Employment and Treatment of Prisoners of War

I. CONTEMPORANEOUS DOCUMENTS

PARTIAL TRANSLATION OF LEHMANN DOCUMENT 460 DEFENSE EXHIBIT 966

EXTRACTS FROM A COMPILATION OF GENERAL AND SPECIAL DECREES CONCERNING THE EMPLOYMENT OF PRISONERS OF WAR

REICH LABOR GAZETTE, PART I, PAGE 384, 25 JULY 1940

The Reich Minister of Labor has brought the compilation printed below, of a large number of special and general decrees on the "Employment of Prisoners of War at Places of Work," to the attention of the supreme Reich authorities interested, the top organizations etc., and also to the regional labor offices and local labor offices with directions for official use. We point to the article of the same content on page V 352.

Employment of Prisoners of War at Places of Work

I. General

The prisoners of war are used for work in the territory of the Reich according to the international agreement on the treatment of prisoners of war of 27 July 1929 soon after they are brought into the prisoner of war camps (Stalags). Prisoners of war who do not want to work can be compelled to work. The prisoners of war are assigned to their places of work by the military offices from the Stalags according to the suggestions and with decisive participation of the regional labor offices and local labor offices. Agricultural work has priority where the assignment of prisoners of war is concerned.

Accordingly, the prisoners of war from the Polish campaign were employed predominantly in agriculture. With respect to

the large number of prisoners of war from the fighting in the west employment in fields other than agriculture is in question to a much higher degree.

II. Work Projects

The regional labor office and labor offices shall procure prisoners of war primarily for the following operations:

1. Agriculture.
2. Forestry and timber work.
3. Activities connected with land improvement.
4. Operations in the total field of mining, including the plants falling within the same category.
5. Railroad operations, both work on the tracks (current maintenance and major operations by outside contractors) as well as other work (freight dispatching, reloading sheds, workshops, etc.) and buildings of the Reichsbahn essential for the war effort.
6. Construction work and operations in buna and hydrogenation plants, cellulose and staple fibre plants, and other plants essential for the war effort.
7. Construction, essential for the war effort, of roads, canals, dams, and residential buildings.
8. Work in brickyards, quarries, and other plants of the group rocks and sands, as far as they are of importance in the war effort.
9. Building under the emergency food program (building of new stables), of dairies and refrigeration plants.
10. Work in the production of peat.
11. Transportation work of any kind.

This list is not exhaustive. Prisoners of war can also be employed in other working projects essential to the war effort. Prisoners of war are only assigned to work on projects which are nonessential to the war effort and of secondary importance, if other employment possibilities do not exist any longer. This is only in question, when even the last possibility of releasing German workers from their places of work by the employment of prisoners of war and utilizing them in more urgent work or work demanding higher qualifications, has been exhausted. The local labor offices, if necessary the regional labor offices or the Reich Ministry of Labor decide the question of the urgency of the employment of prisoners of war and on the priority order which shall be applied to the demands for prisoners of war.

III. Basic Conditions for the Employment of Prisoners of War

1. The work to be performed by the prisoners of war must not be connected directly with operations of war. In particular the employment of prisoners of war for the production and trans-

portation of arms or ammunition is prohibited. Neither must they be employed for the transportation of material destined for fighting troops. The labor offices give all the information required.

2. Prisoners of war must not be employed where the danger of sabotage, espionage, and the undermining of the morale of workers exists. Generally in such cases, the regulations issued for the employment of foreigners apply. The labor offices give all the information required.

3. The prisoners of war must—as far as possible in any way—be separated from other workers in the plant and work in separate departments. They must not work together with other foreigners. If employed in the main plant they must at all costs be escorted back into their isolated living quarters immediately after work.

4. Accommodation must, as a rule, be provided for the prisoners of war and the guards by the plants, in accordance with the standards prescribed by the military authorities.

* * * * * * *

V. Execution of Assignment

1. The prisoners of war will be allocated to the places of work by the Stalags in cooperation with the labor offices. The labor offices competent for the particular camps have established a liaison office at the Stalag. This liaison office, in cooperation with the Kommandantur, is responsible for the occupational registration and the assignment of prisoners of war to working teams and for the allocation of working teams to the employers. Prisoners of war may be allocated to employers only with the consent of the labor office competent for their works. Applications for the allocation of prisoners of war must be submitted to the labor office competent for the plant (the place of work)—for work other than agricultural a form is to be used which is obtainable at the labor offices. The application must give all the necessary information for an allocation of prisoners of war, showing: name of plant, number, and type of prisoners of war required, type of work to be performed, duration of work, working conditions, and arrangements for housing and feeding.

2. Wherever possible, the prisoners of war are to be assigned according to their own trades. Miners, forest workers, and skilled and unskilled construction workers in particular will be registered separately. Members of these trades are, in principle, only to be employed in their respective trades, i.e., in mining, forestry, and building.

3. The basis for the allocation of prisoners of war for work is a contract to be concluded between Stalag and the employer.

* * * * * * *

TRANSLATION OF DOCUMENT NIK–15522
PROSECUTION EXHIBIT 1564

MEMORANDUM FROM DEFENDANT LEHMANN TO KRUPP'S HOUSING ADMINISTRATION, 26 JULY 1940, NOTING THAT KRUPP HAD REQUESTED 206 PRISONERS OF WAR AND THAT 185 WERE ALREADY BILLETED AT CAMP KRAEMERSTRASSE

Cast Steel Works, 26 July 1940
Dr. Lehm/Jue
W.V. [Housing Administration] Diary 1501

[Illegible initials]
Mr. Frick, Housing Administration
via Dr. Beusch
[Initial] B [Beusch]

Following up our letter of 24 June we inform you that we filed request with the labor office for allocation of 206 PW's and 250 plus 120 (Suhlry) civilian foreign workers from Holland and Belgium.

Up to date 185 PW's and 19 civilian foreigners have been assigned by the placement agencies who have been billeted at PW camp Kraemerstrasse and workers' home Seumannstrasse, respectively.

[Signed] LEHMANN

[Various pencil notes, partly legible]

350	PoW Kerkhoffstrasse
100	[illegible]
50	guards
500	Total

	225	Essen Mines: Italian
	370	see above
	200	orally by Mr. Lehmann
	100	from Rhineland
Total	895	

[On the back were pencil notes, partly legible, apparently referring to condition of buildings and utilities.]

PARTIAL TRANSLATION OF DOCUMENT D–198
PROSECUTION EXHIBIT 848

EXTRACT FROM A KRUPP MEMORANDUM TO FIVE DEFENDANTS AND OTHERS, CONCERNING A CONFERENCE OF COUNTERINTELLIGENCE AGENTS IN THE ESSEN AREA ON 5 DECEMBER 1940 ON LIMITED EMPLOYMENT OF PRISONERS OF WAR UNDER INTERNATIONAL LAW

File: 5 S 5

Official concerned: Grassmann

Copies to:

A. Bohlen, Pfirsch, Mueller, Eberhardt, Daur, Reiff, CL, DO, Bmgh, Woe, Wck, Pfr, RO, Egrip, Krue, Thm, Dbg, v. Buelow, Grm, Kz, Roe, Ste.

[Stamp] Secret

Memorandum of Mr. Grassmann* re conference of counterintelligence agents of the armaments industry of Service Command VI at Essen on 5 December 1940.

* * * * * * *

II. Local Security

* * * * * * *

6. According to international agreement prisoners of war may not be employed in the manufacture and transportation of arms and war material. But if any material cannot be clearly recognized as being part of a weapon, it is permissible to get them to work on it. Responsible for this decision is not the counterintelligence [agent] but the commandant of the prisoners of war camp.

* * * * * * *

* Grassmann was an official of Krupp's artillery construction department.

903432—51——77

TRANSLATION OF DOCUMENT NIK-9779
PROSECUTION EXHIBIT 918

LETTER FROM COMMANDER OF KRAEMERPLATZ PRISONER OF WAR CAMP TO KRUPP, 23 APRIL 1941, REQUESTING EXTENSION OF AIR RAID PROTECTION FACILITIES, WITH NOTE CONCERNING A DISCUSSION WITH DEFENDANT LEHMANN

Essen, 23 April 1941

2d Company
Kradschuetzen [Motorcycle] Battalion 486

[Stamp]
Main Administration
24 April 1941 N. 09293
Reply:

Firm
Friedr. Krupp A.G.
Essen
[Handwritten] Housing Administration
Diary 1271
received 25 April 1941

Subject: Kraemerplatz prisoner of war camp

The air raid shelters in the prisoner of war camp Kraemerplatz can offer shrapnel proof protection for 200 to 225 men at the most. Therefore I consider it necessary to expand the shelter trenches to accommodate the present complement of 450 men; kindly inform me whether and when I may count on this expansion The headquarters of Stalag VI F urges the preparation of extensive air raid shelters.

[Signed] HOEVEL
[Stamp] Major and Company Commander

[Handwritten]
To Mr. Kuhlmann on 28 April
Returned 30 April 41. On 1 May discussed with M/Sft who will talk first to Major Hoevel on 2 May.
Copy to: Housing Department
p.t.o.
[Handwritten]
1. Mr. Kuhs for the dispatch of orders for construction.
Housing Department Diary 127
[Above paragraph 1 was crossed out in the original.]

1. This matter was also discussed during the conversation of Dr. Lehmann and First Lieutenant Montag with Mr. Lauffer. (3 May 1941.)

Lieutenant Montag wanted to discuss the matter with Major Hoevel in such a way that the extension of the trench shelters should not be undertaken because of the possibility of moving the prisoner of war camp.

2. Mr. Kuhlmann for information. [Initialed] KU.
3. To submit again *immediately* upon forwarding.

[Signed] DUERR
3 May 1941

PARTIAL TRANSLATION OF DOCUMENT NIK–6745 PROSECUTION EXHIBIT 1045

INTEROFFICE MEMORANDUM FROM KRUPP'S ECONOMIC DEPARTMENT, 11 JUNE 1941, CIRCULATING OFFICIAL INSTRUCTIONS THAT PRISONERS OF WAR MAY BE ASSIGNED ONLY TO WORK ESSENTIAL TO THE WAR EFFORT

Economic Department, 11 June 1941

[Stamp] AK S Artillery Construction Department S
12 June 1941 No. 42229g [Secret]
Action taken
Answered: [Stamp] Secret

To Messrs. Ihn, Haerlin, personnel division; Haupt, Mette, B.f.a.G.; Wolf, B.f.A.; Herfort, Consumer's Cooperative, *A.K. Office*

[Stamp]
Action: dke

AB	Grm	Krue	Dbg	*Rff*
Pf	*Cl*	Thm	Ge2x	*Pbl*
Mue	Stae	Ble		*Ru*
Ebh.	Sbg	Hm	Do	La
F	Spae	Schu	Norm	*Koe*
Da	Wes	Rdl		Wa
Hn	ZV	Bl	Bmgh	Boe
B		Th		KMS
Kz2x	Sta	Bm	Roe	Bro
Pr	Ba	Wue		Pba
Tbg	Mep	Lue	Pfr	
	Gera	Ma	Schoe	*Vw* 2
		Wck		Stumm
	TB		Ro	SW
	HVB		Str	HABtl
Schuster	PB		Ga	

* * * * * * *

145. *Subject: The allocation of prisoners of war (7177/41)*

Supplementing [file No.] ARK 1940, page 26, number 307 reference is made to the fact that prisoners of war may be allocated only to tasks which are essential to the war effort and which have critical bearing on same, so far as the regulations governing the safeguarding of secrecy will permit. (Compare with ARK 1940, page 26, number 254). The plants are hereby called up to investigate the allocation of war prisoners according to the above mentioned principles and to effect transfers without delay when the case so demands. At the same time the allocation is to be examined according to the following viewpoints:

1. Are the skilled workers among the prisoners of war employed in line with their occupational skill?

2. Is the working power of the allocated prisoners of war fully utilized in tasks essential to the war effort?

147. *Subject: Unrestricted recruitment of labor in the Government General (12072/41)*

Plants which have subsidiaries in the Government General territory, are being referred to the possibility of recruiting without restriction manpower through these same subsidiaries by presenting claim at the labor allocation offices.

[Signed] HEHLMANN

PARTIAL TRANSLATION OF LEHMANN DOCUMENT 515 DEFENSE EXHIBIT 940

CIRCULAR LETTER FROM THE REICH MINISTER FOR LABOR TO PRESIDENTS OF REGIONAL LABOR OFFICES, 26 AUGUST 1941, ANNOUNCING GOERING'S ORDER THAT 100,000 FRENCH PRISONERS OF WAR BE REASSIGNED TO THE ARMAMENT INDUSTRY

The Reich Minister For Labor
Va 5135/1277

Annex 1 to the Decree of the Minister for Armament and Munition

No. 371–4770/41 secret
216/985
Berlin, SW 11, 26 August 1941

Special Delivery

To: Presidents of Regional Labor Exchange Offices (including Nuernberg Branch Office)

Subject: Use of Russian prisoners of war

Reference: Circular letter of 14 August 1941—Va 5135/1189

Upon personal order of the Reich Marshal 100,000 men are to be taken from among the French prisoners of war not yet employed in armament industry and are to be assigned to the armament industry (airplane industry). Gaps in manpower supply resulting therefrom will be filled by Soviet prisoners of war. The transfer of the above-mentioned French prisoners of war is to be accomplished by 1 October.

Russian prisoners of war can be utilized only in quite large, concentrated groups under the well known, tougher employment conditions. In the civilian field, the regional labor offices will have to determine immediately those work projects where French prisoners of war can be withdrawn and replaced by Soviet groups. For the time being, no additional assignment of Soviet prisoners of war can be considered. Initially all replacement possibilities must be completely exhausted. Similarly, all French prisoners of war no longer needed are not to be channeled into agriculture and forestry anymore, but exclusively into armament industry (aircraft industry).

All branches of economic life employing French prisoners of war, with the exception of the armament industry and mining, are to be surveyed to determine those work projects where exchanges are feasible. The absolute necessity that Soviet prisoners of war replacements be employed in larger concentrated groups, requires, among other things, special checking of all larger construction projects of any kind (including construction of the Reich railroads, navigation and land improvement projects). Reich Minister Dr. Todt has already consented to the exchange of French prisoners of war employed by the Reich super-highways. In agriculture the exchange can naturally be effected only in the case of large estates (especially estates with outlying farms). Exchange of prisoners of war will frequently encounter resistance. The factories concerned will be reluctant to exchange the trained and proved French prisoners of war for Soviet prisoners of war. In such cases the labor offices have to draw the factories' attention to the necessities of State, and to the directive of the Reich Marshal.

As soon as the regional labor offices have determined the work projects affected by the exchange, they will inform the service command headquarters, indicating how many French prisoners of war are being made available and how many Soviet prisoners of war will be needed to replace the French prisoners of war. Without my express consent not more than 120 Soviet prisoners of war may be requested for each 100 French prisoners of war made available. Since the determining factors in the allocation of Soviet

prisoners of war are military and counterintelligence considerations final decision about the exchange rests with service command headquarters.

If among the exchangeable groups of French prisoners of war there should be by way of exception any trained miners or farmers, they shall be directed to the occupations for which they have been trained. As a substitute for them, however, suitable French prisoners of war are to be liberated in exchange for the munitions industry. The first 100,000 French prisoners of war shall be channeled into the aircraft industry. The Reich Air Ministry will submit a plan in the near future, according to which airplane factories will receive those French prisoners of war who have been released [from other work]. I shall inform you concerning your area, which will be fixed in the distribution plan of the Reich Air Ministry. In order to avoid any considerable changes, you will receive under your jurisdiction the plants of the airplane industry located in your area. However, in view of the rather divergent work loads, a balancing within the Reich territory cannot be entirely avoided. Information bulletins disseminated to the service commands by the regional labor offices shall be passed on consecutively, and not after all investigations in the various districts have been concluded. Copies of the abovementioned information bulletins shall be forwarded to my office. They will have to show—

Regional labor office.

Local labor office.

A designation of the planned work project (name, location of plant).

Number of French prisoners of war to be exchanged.

Number of Soviet prisoners of war to be allocated.

Also, reports shall be submitted to me at the time when the exchange has been completed.

Forms for the labor offices are attached.

As Deputy:

[Signed signature]

TRANSLATION OF LEHMANN DOCUMENT 170
DEFENSE EXHIBIT 939

DECREE OF FIELD MARSHAL KEITEL, 24 DECEMBER 1941, BASED ON HITLER'S ORDERS TO BRING AS MANY RUSSIAN PRISONERS OF WAR AS POSSIBLE INTO GERMANY FOR WORK IN THE ARMAMENT INDUSTRY

Extract from [Document] EC 347

E. Employment of Prisoners of War in the Reich

(Decree of the Chief of the High Command of the Armed Forces concerning the increased employment of prisoners of war from Soviet Russia in the Reich, of 24 December 1941.)

The Chief of the Armed Forces High Command
WFSt [Armed Forces Operations Staff] (L) No. 003150/41
AWA [General Armed Forces Office] prisoners of war No. 8770/41

24 December 1941

On account of the necessity to free for duty at the front a considerable number of soldiers who were so far considered indispensable for the war production, the employment of prisoners of war has gained considerably in importance.

For this reason the Fuehrer commanded—

1. The transfer of prisoners of war from Soviet Russia into the armament and war production has become a decisive problem for the maintenance of our armament capacity and for the efficiency of our war economy.

2. It is important that all offices and agencies concerned with the procurement of prisoners of war from Soviet Russia as usable workers, do their utmost to increase and especially to speed up the employment capacity of the prisoners of war. Sufficient nourishment and elimination of the danger of typhus are prerequisites. All offices responsible for this must be aware to the highest degree of their responsibility and of the necessity to bring as many prisoners of war as possible into the Reich, in order to put them at the disposal of the office "labor allocation" of the Plenipotentiary for the Four Year Plan.

3. The allocation of all fit prisoners of war to the armament industry has thus become the most urgent task. For this reason, all other demands, as far as they are not directly benefiting the combat troops will have to wait.

4. The already ordered and planned quota of Soviet prisoners of war from the army, the replacement army, the Reich Minister for Aviation and Commander in Chief of the Air Force, the navy, and the Waffen SS are to be examined on this basis, especially

with a view to the number of persons. The OKW, in agreement with the Plenipotentiary for the Four Year Plan (labor allocation) and the Reich Minister for Armament and Munitions in consideration of the demands of the Wehrmacht, including the eastern authorities, is setting up a new order of priorities for the allocation of labor.

5. All Soviet prisoners of war, who become available, are to be offered to the OKW. The OKW will report to me by the 15th of each month, for the first time on 15 January 1942, how many Soviet prisoners of war—

a. have been put at disposal [for labor allocation] during the past months, and

b. will probably be offered during the current month.

KEITEL
Field Marshal

TRANSLATION OF LEHMANN DOCUMENT 385
DEFENSE EXHIBIT 969

CIRCULAR FROM GOERING TO ALL MAJOR AIRCRAFT INDUSTRY FIRMS, 27 NOVEMBER 1941, CONCERNING MANPOWER SHORTAGES AND EMPLOYMENT OF RUSSIAN PRISONERS OF WAR IN INDUSTRY GENERALLY AND IN AIRCRAFT PRODUCTION

The Reich Minister for Aviation
and Commander in Chief of the Air Force
G1/A—Pl No. 1801/41 (Pl 4)

Berlin W 8, 27 November 1941
Leipzigerstr. 7

Express Letter

Circular letter to all major firms of the aircraft industry re: employment of Russian prisoners of war.

[Handwritten]
Dr. Lehmann

Once again the instructions of the employment of Russians are so confining that I cannot accept responsibility for the employment of more than 200 Russians.

[Signed] HINTZ 4 December

Mr. Hintz.

Please return. Please discuss the problem with the [Illegible].

[Signed] LEHMANN
4 December 1600 hours

[Stamp] External Labor Allocation Dept.
Received: 4 December, Journal No. 227
Reply:

It is obvious from the reports so far received on manpower requirements that it will be quite impossible to obtain on the free labor market the exceptionally large number, especially of skilled workers, required. Nor is it possible to obtain the men required from the Wehrmacht or to recruit workers with the necessary qualifications in friendly or in occupied countries abroad.

On the other hand we have at our disposal large numbers of Russian prisoners of war who must be put to work anyhow, unless they are unfit for work. Among these Russian prisoners of war there is a considerable number of skilled workers or semi-skilled workers who worked in the Russian armaments industry and who are therefore perfectly capable of doing useful work in aircraft production.

The Fuehrer has issued instructions that Russian prisoners of war are to be put at the disposal of the German industry in large numbers. The Reichs Marshal and Plenipotentiary for the Four Year Plan has issued instructions to the Reich Labor Ministry to take immediately whatever measures might be necessary for the execution of the scheme. The Reich Ministry of Aviation has undertaken to submit to the Reich Labor Ministry suggestions for the distribution of the Russian prisoners of war detailed for aircraft production.

It is intended that firms compelled by the manpower shortage to employ Russian prisoners of war to meet their requirements should select them in German camps and should sort them out by trades. Due care will of course be taken to insure that only fit and healthy workers are offered to the German industry. The German industry has appointed experts who are carrying out a preliminary selection in the Russian prisoner of war camps so that the prisoners of war in the German camps are all picked men.

You must now investigate carefully how, where, and to what extent Russian prisoners of war can be used in your plant. Two possible methods of employment should be considered: *employment in separate plants or departments* (*workshops*), under German supervision from the foremen upward, all other workers being prisoners of war.

If that is impossible you must investigate the possibility of employing working parties (*of at least twenty men*) of Russian prisoners of war. These working parties would have to work in separate premises so that there would be no contact with the rest of the staff. Generally speaking, Russian prisoners of war may

be employed in all types of work usually done by foreigners. They may therefore not be employed in final airplane assembly, airplane engine assembly, or the assembly of self-contained apparatus. [Handwritten] impossible

Detailed security regulations will be issued by the authorities concerned in the near future.

TRANSLATION OF LEHMANN DOCUMENT 296
DEFENSE EXHIBIT 971

LETTER FROM THE SUBCOMMITTEE FOR TANK PRODUCTION TO KRUPP, 29 JANUARY 1942, NOTING DEMAND OF REICH MINISTER FOR ARMAMENT AND MUNITIONS THAT LARGER NUMBERS OF RUSSIAN PRISONERS OF WAR BE EMPLOYED IN TANK FACTORIES

[Stamp]
Internal Labor Allocation
Diary No. 23483/2 Schn.
Received: AKS No. 49147 received 31 January 1942

File: 10 S 3
Official concerned: Koe.
Copies to: Kz 2x, Mue, Ebh, oi Rff, Koe, KMT, Hintz, Kraus, Beckm, Wolf, Korkhaus.

Subcommittee for Tank Production
Special Committee No. VI
Sender: Dr. Krause
Dr. Kr/G
Duesseldorf, 29 January 1942
Department A.K.
Attention: Dipl. Ing. Koettgen

Subject: Working Committee Ia "Allocation of Labor", employment of Russians

In a discussion on manpower problems in tank factories held on 22 January 1942 the Reich Minister for Armament and Munitions again emphasized the necessity of employing immediately increasing numbers of Russian prisoners of war in view of the recent scale of inductions. He demanded that all the possibilities of employing Russian prisoners of war be investigated immediately and that the work necessary in this connection be carried out thoroughly.

We have already communicated to you in our circular letter No. 5/42, dated 20 January 1942 the instructions governing the employment of Russians (AKS No. 48776).

T.5.2. Please submit *immediately* the necessary applications for

allocation of Russian prisoners of war to the labor office and to the service command plenipotentiary concerned and let us have a copy of these applications.

The service command plenipotentiary will allocate Russian prisoners in accordance with the instructions issued by the Ministry for Munitions. It is advisable that a representative of the firms asking for an allocation be present when the Russian prisoners of war are selected in the prisoner of war camp concerned. Arrangements must be made to billet the Russian prisoners of war in accordance with regulations.

Subcommittee for Tank Production
Special Committee No. VI
Signed: DR. KRAUSE

[Handwritten]
Dr. Lehmann
For attention and action.

[Signed] HINTZ

[Initials] Lehm [Lehmann] [Illegible note]

TRANSLATION OF DOCUMENT NIK-15518
PROSECUTION EXHIBIT 1568

MEMORANDUM FROM DEFENDANT LEHMANN TO KRUPP'S HOUSING ADMINISTRATION, 13 FEBRUARY 1942, NOTING KRUPP'S REQUEST FOR 9,240 FOREIGN CIVILIAN WORKERS AND PRISONERS OF WAR AND FURTHER, THAT 150 FRENCH PRISONERS OF WAR "FOR THE ESSEN MINES" WERE BILLETED AT KRAEMERPLATZ PRISONER OF WAR CAMP

BfaG—Labor Allocation A., 13 February 1942
Bal./Goe.
Diary 790

Mr. Lauffer—Housing Administration

Subject: Orders filed for allocation of civilian foreign workers and PW's

Civilian foreigners

Number	*Requested on*	*Allocated*
2,000 Italians	8 October 1941 and 15 January 1942	
100 Spaniards	17 October 1941	
30 Poles	4 August 1941	
1,975 Poles	4 September 1941	
900 Poles	17 October 1941	
400 Poles	19 January 1942	
350 Frenchmen	16 December 1941	
200 Frenchmen	14 January 1942	
50 Dutchmen	30 October 1941	
45 Croats	14 January 1942	
350 Rumanians	28 January 1942	
6,400		

Prisoners of War

Number	*Requested on*	*Allocated*
840 Frenchmen	16 October 1941	142 on 18 January 1942
		23 on 4 February 1942
		40 on 13 February 1942
2,000 Russians 700	12 November 1941	65 on 11 February 1942
		270

Total 9,240 requested.

In the prisoner of war camp Kraemerplatz we billeted furthermore on 22 January 1942, 150 Frenchmen for the Essen mines.

[Signed] LEHMANN

[Handwritten]
1. H. Bohlen
2. H. Grosse * * *
3. H. Kuhlmann
3*a*. Duerb.
4. Housing Administration

[Illegible initials and handwriting]

TRANSLATION OF DOCUMENT D-164
PROSECUTION EXHIBIT 896

KRUPP INTRAOFFICE MEMORANDUM, 25 FEBRUARY 1942, CONCERNING QUESTIONING OF KRUPP OFFICIAL BY THE GERMAN LABOR FRONT ON TREATMENT OF RUSSIAN PRISONERS OF WAR, WITH A SUPPLEMENTARY MEMORANDUM ON DEFENDANT LEHMANN'S REACTIONS TO THE PROBLEM

Copy

Boiler construction, 25 February 1942

To Mr. Hupe,
via Mr. Winters,
via Mr. Schmidt.

In the enclosed letter* from the German Labor Front dated 18 instant (sent to my private address) I was requested to appear on Friday the 20th inst. at the offices of the German Labor Front, Steubenstr. 61, room 20. On 20 February between 0800 and 0900 hours I telephoned and thus tried to settle the matter, the nature of which remained unknown to me. The answer of the German Labor Front was that it was something very important and required my personal attendance. I thereupon asked Mr. Juengerich of the office for social labor matters, whether I had to comply with this request.

Mr. Juengerich answered that I probably was not forced to, but that I had better go.

So at about 0950 hours I called on Mr. Prior at the abovementioned office, room 20.

The discussion which lasted about ½ hour and was conducted very energetically by Mr. Prior had arisen from the following incident:

On the 16th of this month, 23 Russian prisoners of war were allocated to the boiler construction works. These men came to work in the morning without bread or tools. During the two breaks, the prisoners approached the German workers seated in the vicinity and plaintively begged for bread, pointing out that they were hungry. (At lunchtime on the first day, the firm was able to distribute among the Russian prisoners of war food left over by the French prisoners of war.) On 17 February, at the instigation of Mr. Theile I went to the kitchen in Weidkamp to remedy this state of affairs and negotiated with the manageress of the kitchen, Miss Block, about the issue of some lunch. Miss Block immediately promised me to issue some food and in addition lent me the 22 mess tins which I asked for. On this occasion I also asked Miss Block to let our Russian prisoners of war have

* The inclosure was not a part of the exhibit introduced in evidence.

until further notice, at lunch time such food as might be left over by the 800 Dutch personnel fed there. Miss Block agreed to this too, and issued a pot of milk soup as additional food for the next lunch. On the following day again the lunch allocation was very small. Since some Russians had already collapsed, and since from the second day onward the special allocation too had ceased, I tried again to ask Miss Block by telephone for a further issue of food. Since my phone call did not have the desired effect, I paid another personal visit to Miss Block. This time Miss Block refused any further special allocation of food in a very brusque manner.

Details of the discussion—The following persons were present in the room: Mr. Prior, two other representatives of the German Labor Front, and Miss Block, manageress of the Weidkamp kitchen. Mr. Prior acted as spokesman and accused me, wildly gesticulating, and in an insulting manner, of having given my support to the Bolshevists in a conspicuous way. He referred to paragraphs in ordinances of the Reich government which disapprove such an attitude. Unfortunately I did not quite understand the legal aspect of the matter or else I would have left the room immediately. I then tried to make it clear to Mr. Prior with particular emphasis, that the Russians had been allocated to us as workers and not as Bolshevists. The men were starved, and were unable to carry out the heavy labor in our boiler construction plant for which they were intended. Sick personnel were only a burden to us and of no use in production. To this Mr. Prior replied that if one were no good, another one might be; the Bolshevists were people without souls, and if 100,000 perished the next 100,000 were available to take their place. When I pointed out that with such a continuous changeover we would not be able to achieve our aim, namely to deliver locomotives to the German State Railways, who urged us daily to reduce the time needed for delivery. Mr. Prior replied: "Deliveries are of only secondary interest in this affair."

My efforts to teach Mr. Prior some understanding of our economic requirements were entirely unsuccessful. In conclusion I can only say that I as a German have an accurate knowledge of the attitude towards Russian prisoners of war, and acted in the case described above only at the request of my superiors and with the aim of the required increase of production in mind.

Signed: SOEHLING
Office manager of locomotive factory

To the above letter I have to add the following:

After the Russian prisoners of war had been allocated to us by the labor allocation office on the 16th of this month, I immediately

got in touch with Dr. Lehmann to settle the question of feeding them. I then learned that each prisoner receives 300 grams of bread between 0400 and 0500 hours. I pointed out that it was impossible to exist on this bread ration until 1800 hours, whereupon Dr. Lehmann told me that the Russian prisoners of war must not be allowed to get used to western European ways of feeding. I replied that the prisoners could not carry out the heavy labor required in the boiler construction shop on these rations and that it would not serve our purposes to keep the men at the works under these conditions. At the same time, however, I requested that if the Russians were to continue to be employed they should be given a hot midday meal and that, if possible, the bread ration should be divided, one half being distributed early in the morning and the other-half at the time of our breakfast break. This proposal of mine has already been put into effect by us with French prisoners of war and has proved effective and expedient.

To my regret Dr. Lehmann did not agree to my proposal, however, and on this account I was again obliged to settle the matter within the plant in my own way. I therefore ordered Mr. Soehling to arrange the provisioning of the Russian prisoners of war in the same manner as that of the French prisoners of war, so that the Russians could perform the work demanded of them as soon as possible. For in this matter we are solely concerned with an increase in production, as requested by the Minister for Armament and Munitions and the German Labor Front.

[Signed] THEILE

TRANSLATION OF DOCUMENT NIK–6115
PROSECUTION EXHIBIT 1228

CIRCULAR LETTER FROM KRUPP'S MAIN ADMINISTRATION TO PLANT MANAGERS, SIGNED BY DEFENDANT IHN, 13 MARCH 1942, CONCERNING RELATIONS OF GERMAN EMPLOYEES WITH PRISONERS OF WAR

Main Administration No. 3978

Cast Steel Works, 13 March 1942
Employee Affairs Department
Fr/Ju

To the Plant Managers

Subject: Relations with prisoners of war

In spite of repeated instructions and admonitions, numerous employees continue to infringe upon the regulations regarding

relations with prisoners of war. Thus lately, purchase and barter transactions have been discovered between German male and female workers or foreign civilians on one side and prisoners of war on the other. The severe sentences of imprisonment and penal servitude with which the German courts have been punishing such offenses, ought to suffice as deterrents. Nowadays all courts are proceeding relentlessly in all cases in which German money or any civilian clothes have been handed over to prisoners, because many recent escapes were made possible only by transactions of this kind.

As the allocation of Russian prisoners of war for labor is being increased in the near future, it is absolutely necessary that the employees be warned again. They must be made to realize that all prisoners of war—including the French—belong to hostile nations. *The Russian civilian workers are to be treated in the same way as prisoners of war.* Any sympathy is false pity, which the courts will not accept as an excuse.

In this connection we refer to our circular letters of 27 September 1941, 16 October 1941, and 1 December 1941. The posters regarding relations with prisoners of war, which have been published, must be put up in a conspicuous position in every plant.

Fried. Krupp
Aktiengesellschaft
[Signed] IHN

TRANSLATION OF DOCUMENT D-297
PROSECUTION EXHIBIT 901

MEMORANDUM FROM KRUPP'S BOILER CONSTRUCTION SHOP TO HUPE, 26 MARCH 1942, CONCERNING THE RELATIONSHIP BETWEEN FOOD CONDITIONS AND THE WORKING ABILITY OF RUSSIAN PRISONERS OF WAR AFTER 6 WEEKS OBSERVATION

[Handwritten]
Mr. Ihn, 30 March
Dr. Beusch, 28 March
Initial B [Beusch], 31 March

Boiler Construction
26 March 1942
[Handwritten] 27 March

Fried Krupp AG
Essen
To Mr. Hupe, via Mr. Winters
Subject: Allocation of Russian prisoners of war and Russian civilian workers

Now that 6 weeks have passed since Russian prisoners of war have been employed in the boiler construction shop, we can form an opinion about their employment.

The Russian prisoners of war employed are in a generally weak physical condition and can only partly be employed on light fitting jobs, electric welding, and auxiliary jobs. Ten to 12 of the 32 Russians here are absent daily on account of illness.

In March, for instance, 7 appeared for work only for a few days, 14 are nearly always ill, or come here in such a condition that they are not capable of even the lighest work. Therefore, only 18 of the 32 remained who could be used only for the lighest jobs.

The reason why the Russians are not capable of production is, in my opinion, that the food which they are given will never give them the strength for working which you hope for. The food one day, for instance, consisted of a watery soup with cabbage leaves and a few pieces of turnip. The punctual delivery of the food leaves a good deal to be desired too. This week for instance, the food arrived at 1400 hours, one day, and 1315 hours another, so that the working time is cut by the long dinner break. Complaints about these unpunctual deliveries have been made more than once to Mr. Hahn of the cooperative store.

It can also be said about the employment of the Russian prisoners of war that it will mean a great disappointment for the works in that much unpleasantness and increased work for the offices and works direction has been caused, but no increase in production has been achieved in the works.

It is well known in the departments concerned, such as labor allocation office and prisoners' feeding office what the conditions are like at the moment, and they have been asked more than once by the works management, as well as by Mr. Soehling personally, to have good food served punctually, all without success. The Labor Front has pointed out to Mr. Soehling that it is definitely not his job to bother about food for the Russian prisoners of war.

It is about time that either a change was made here, or the Russians incapable of light work be gotten rid of, since they only create extra costs for the works, and in the coming warm season could bring diseases.

About the 5 civilian Russian workers, it can be said that they too cannot do heavy work, partly on account of the afore-mentioned grounds.

The two boilermakers were employed on the heavy boiler smith work for a few days only, since their physical condition did not allow them to work any longer. The men employed as electric welders can be used to do light welding work.

[Signed] THEILE

Copy to Mr. Winters

TRANSLATION OF LEHMANN DOCUMENT 426
DEFENSE EXHIBIT 1171

LETTER FROM THE GERMAN LABOR FRONT TO KRUPP'S WORKERS COUNCIL, 21 FEBRUARY 1942, TAKING EXCEPTION TO KRUPP EMPLOYEES WHO HAD INTERVENED TO OBTAIN BETTER RATIONS FOR RUSSIAN PRISONERS OF WAR

The German Labor Front
Area Headquarters Essen
District Headquarters Essen
[Handwritten] to the files, Lehmann 6 July 1942
The District Chief,
Department: Labor Allocation

Essen, 21 February 1942
Steubenstrasse 61
Telephone 5 12 51

To the
Workers' Council of the Firm
Fried.Krupp A.G.
Essen [Initials] Bu
Lehm [Lehmann] 24 February

[Stamp]

Labor Allocation A
Received 24 February, Diary
No. 897
Replied:

Subject: *Feeding of Soviet Russian prisoners of war*

On 1 October 1941 the Reich Minister of Food and Agriculture issued special instructions concerning the rations for Soviet Russian prisoners of war. These instructions will also be adhered to by the camp kitchen Weidkamp which is responsible for the additional rations.

It is beyond comprehension that German employees should criticize these rations and state that they are insufficient and that the hot meals are not served until the evening. Repeated efforts have been made to induce Miss Bloch [Block], who is in charge of the kitchen, to issue larger portions. Party member Fritz Soelling [Soehling] in particular has intervened on behalf of the Soviet Russian prisoners of war.* In order to avoid that this conception spreads to larger circles, we have informed S. [Soehling] in our office that the rations issued in camp Weidkamp are in conformance with the regulation and that the kitchen manageress was not authorized to increase these rations in compliance with his request. The Dutch workers also receive higher rations; however, the food is not issued at the place of work.

It is necessary to take energetic steps to combat all unjustified criticism.

Heil Hitler!
By ORDER:
[Signature illegible]

* Soehling's account of his intervention appears in Document D-164, Prosecution Exhibit 896, reproduced earlier in this section.

PARTIAL TRANSLATION OF DOCUMENT NIK-13364[1]
PROSECUTION EXHIBIT 1364

EXTRACT FROM A FILE NOTE ON A CONFERENCE OF KRUPP OFFICIALS, 19 SEPTEMBER 1942, CONCERNING AIR RAID PROTECTION MEASURES FOR PRISONERS OF WAR

Notes on the Discussion Held on 19 September 1942
Concerning Completion of the Barracks Camp

Present:

Dr. Beusch
Civil Engineering Office: Frisch, Mennicken, Lipsius
Housing Department: Lauffer
Cooperative Stores: Laurich, Hahn
Plant Police: Hassel
Administrations: Schulz

* * * * * * *

10. Air-raid protection—Special attention must be paid to the air raid protection measures. The prisoners of war must construct slit trenches [Splittergraeben] themselves. For this purpose no wood can be made available. Air raid facilities [Luftschutzeinrichtungen] must be provided for the kitchen personnel.

Signed: BEUSCH

TRANSLATION OF LEHMANN DOCUMENT 421
DEFENSE EXHIBIT 1186

KRUPP LETTER, SIGNED BY DEFENDANTS IHN AND LEHMANN, TO THE OKW PRISONER OF WAR (GENERAL) DEPARTMENT, 26 SEPTEMBER 1942, PROPOSING ADDITIONAL RATIONS FOR RUSSIAN PRISONERS OF WAR DURING A "FEEDING-UP CAMPAIGN"[2]

[Initials] Lehm [Lehmann]

Tr./K. 26 September 1942

Labor Allocation A, Journal No. 3339

Feeding-up of Russian prisoners of war

Some time ago 300 Russian prisoners of war were, among others, allocated to us for essential war work. They were in an unusually poor state of health, and all attempts to employ them

[1] Further extracts from this document appear in section VIII D 1.
[2] Document Lehmann 422, Lehmann Defense Exhibit 1187, immediately following.

for any useful purpose have so far failed. They are obviously so undernourished and weak that they are unable to work even with the best of intentions. With the food due to them we are, according to our observations, unable to strengthen them so far as to be able to employ them in the near future. This is all the more regrettable, since the need of manpower is extremely great at present in all our vital branches of production and the allocation of prisoners of war and civilian workers is extremely small in proportion to it. In our opinion additional rations would have to be granted for some time to the Russian prisoners of war in question. We estimate that this would take 4 weeks. We take the liberty to inquire whether it might be possible to authorize the additional food necessary for such a "feeding-up campaign" and if so what steps we should have to take in order to obtain it.

As we are, under the circumstances described, very anxious to employ the Russian prisoners of war in the very near future, we should be most grateful if you would give us your opinion on the matter as soon as possible.

To the Armed Forces High Command
Department Prisoners of War and War Losses
Berlin W 30
Badensche Strasse 50/51

Heil Hitler
[Stamp] Fried. Krupp
Aktiengesellschaft
The Board of Directors

Signed: IHN

Signed: LEHMANN

[Initial] T

TRANSLATION OF LEHMANN DOCUMENT 422
DEFENSE EXHIBIT 1187

LETTER FROM OKW PRISONER OF WAR (GENERAL) DEPARTMENT TO KRUPP A.G. STATING THAT FOOD FOR RUSSIAN PW'S WILL BE IMPROVED SHORTLY IN ACCORDANCE WITH NEW REGULATIONS MAKING "FEEDING-UP CAMPAIGN" UNNECESSARY*

[Handwritten]
To be filed.

Berlin-Schoeneberg 1
Armed Forces High Command
15 October 1942
Az. 2 f 24.22a Prisoners of War General (IVb)
Badensche Strasse 51
Telephone: 71 25 94

(In your answer please quote above business reference, date and contents)

21 October
[Stamp]
External Labor Allocation
Received: 21 October
Diary No. 3339
Answered:

To the Firm of Fried. Krupp A.G., Cast Steel Factory, Essen

[Handwritten] Lehm.

Subject: Feeding-up of Soviet prisoners of war

Reference: Your letter dated 26 September 1942 Az. Tr./K. Diary No. 3339.
Labor Allocations A
[Initials] Lehm [Lehmann]

As from 19 October 1942 new food regulations will be in force for Soviet prisoners of war with notable improvement of food allocations for these prisoners of war both in quality and quantity. The procurement of these supplies will make it possible to feed the Soviet prisoners of war adequately and to re-establish the full working capacity of the prisoners. Further provisions for special feeding-up of prisoners should therefore no longer be necessary.

The Chief of the High Command of the Armed Forces
By Order:
[Signature illegible]

* See Document Lehmann 421, Defense Exhibit 1186, immediately preceding.

TRANSLATION OF LEHMANN DOCUMENT 347
DEFENSE EXHIBIT 1146

MEMORANDUM FROM CAMP ADMINISTRATOR EICKMEIER TO DEFENDANT LEHMANN, 14 OCTOBER 1942, REPORTING UPON AN INSPECTION OF KRUPP'S HERDERSTRASSE CAMP FOR RUSSIAN PRISONERS OF WAR

Dr. Lehmann

[Initials] Lehm [Lehmann] 14 October

Subject: *Report on the inspection of the prisoner of war camp Herderstrasse on 13 October 1942*

1. 18 dry-toilets have been delivered, 12 are still outstanding.

2. Only one barrack has light, the lighting circuit in the other 7 barracks has been installed, the lamps however are missing. An arc lamp is missing above the parade square and another above the gate in front of the guardroom. These lamps (F) are urgently needed if the labor allocation is to function properly. The switch for these lamps should be in the washroom. [Handwritten] (F) in the barracks and above the assembling square.

3. The sanitary installations (washrooms and toilets) were found in order and clean.

4. All water pipes along the outer walls unless they are in heated rooms, must be protected against frost. Otherwise innumerable repairs will become necessary during the ensuing winter months. This may endanger the operations of the kitchen.

5. There are 30 stoves which, however, have not been installed yet as the pipes are not yet available—6 stoves are still missing, namely 1 stove in the toilet and washroom of the sick bay, 4 stoves in the wash hut and toilet for prisoners, and 1 stove in the wash hut and toilet for guards.

It is essential that the latter should be installed since the danger of freezing in the huts is very great.

The room for the guards, the guardhouse and the office should already be heated by now. This, however, is not possible, as the existing stoves have not yet been installed.

The following items are needed:

36 coal shovels.

36 coal scuttles or boxes.

It is urgent that 1 shed for coal and other fuel should be erected.

6. Gutters and gutterpipes are missing everywhere. On rainy days the courtyard is hardly passable owing to the large and deep puddles. A thick layer of ashes throughout the entire camp is absolutely necessary.

7. Setting-up of mending rooms for shoemakers and tailors.

8. Air raid tools are missing altogether. An air raid slit trench for both guards and prisoners is also missing.

9. People on the sicklist—[Handwritten] see end (x). Today 215 prisoners reported sick, 24 percent approximately. A Polish physician (prisoner of war) is in charge of the medical service. There is no doubt that there are a great number of malingerers among the 215 people, who, even if they are considered fit by the Polish physician, will nevertheless be absent from work on that particular day. It seems to me that the Polish physician should keep a closer check to eliminate malingerers.

I recommended to the camp leader that prisoners of war reporting sick in the evening, should be examined by the camp physician immediately so that the great number of odd days on which work is missed will be finally eliminated. This procedure is to be introduced as soon as light has been installed in the huts.

10. The midday meal for guards and prisoners was very good.

[Signed] EICKMEIER

(x) Seriously ill (Dropsy, heart diseases and TB)	6
Intestinal diseases	35
Oedema patients	30
Light sick	144
Total	215

The high sickness rate in comparison to other camps is explained by the fact that the Russian prisoners of war arriving on the last transport were allegedly in a very poor state of health.

TRANSLATION OF LEHMANN DOCUMENT 345
DEFENSE EXHIBIT 1149

KRUPP MEMORANDUM, 16 OCTOBER AND 19 NOVEMBER 1942, CONCERNING CRITICISMS MADE OF KRUPP PRISONER OF WAR CAMPS BY GERMAN ARMY INSPECTORS AND REMEDIAL MEASURES TAKEN BY KRUPP

Main Administration Diary 244
Labor Allocation A
[Illegible handwriting] 16 October 1942
Tr./P.—Diary No. 3596

Housing Administration
via Dr. Beusch [Initial] B [Beusch]

Subject: Prisoner of war camps

At midday today Lieutenant Colonel Jauch and Captain Maeckel from Stalag visited us, and without asking anybody from the

plant undertook an inspection of the prisoner of war camps.

They made the following criticisms on the camps:

1. *Raumerstrasse*

a. The sentry protection holes were too weak; the side walls would have to be covered with more earth. The entrance is too wide. It would have to be narrowed down by about one half and lined with strong boards.

b. The gate for the actual Russian camp would have to be fixed as *quickly as possible.*

c. Stoves are urgently needed for the huts.

d. The huts are, at present, standing on bases. The hollow spaces will have to be filled in with sand or earth quickly. This would keep the cold wind from blowing through underneath the huts and would decrease the unhealthy effects of the cold floors.

2. *Bottroperstrasse*

a. A warning wire would have to be fixed in front of the actual obstacle.

b. The watch towers to be started on as soon as possible.

3. *Herderstrasse*—There are no air raid installations for the guards or for the prisoners of war. One could not help gaining the impression that the space needed for same was not considered in the planning. If necessary the fence would have to be moved or the trench dug in the first place outside of the fence, and the fence later moved beyond it.

[Signed] LEHMANN

[Stamp]

Housing Department
21 October 1942
Enclosure J.No. I 244

[Signed] BEUSCH

[Illegible handwriting]

[Initial] B [BEUSCH] 19 November

U. Dr. Beusch

returned.

On the criticisms that were made I inform you—

Raumerstrasse

a. The sentry holes have been completed.

b. The gate to the Russian camp has been fixed.

c. The stoves have been installed.

d. The earth has been filled in from the sides.

Bottroperstrasse

a. The warning wire has been fixed.

b. The watch towers will be built by the construction office.

Herderstrasse—Air raid trenches have been planned behind the western part of the camp. They will be dug by the construction office. On inquiry, the construction office stated that they will do it as soon as labor becomes available.

Cast Steel Works, 18 November 1942
Krupp Housing Administration
[Signature illegible]

[Handwritten] To Dr. Lehmann for attention
[Signature illegible]
19 November 1942

TRANSLATION OF LEHMANN DOCUMENT 341
DEFENSE EXHIBIT 1189

MEMORANDUM FROM DEFENDANT LEHMANN TO THE MANAGER OF KRUPP'S COOPERATIVE STORES, 31 OCTOBER 1942, CONCERNING THE HEALTH OF RUSSIAN PRISONERS OF WAR IN KRUPP CAMPS AND RECOMMENDING PROCUREMENT OF ADDITIONAL UNRATIONED RAW FOODS

Labor Allocation A, 31 October 1942
Dr. Lehmann/Ka.—Journal No. 3675

Mr. Laurich, Cooperative Stores

At yesterday's meeting with Mr. Girod I discussed supplementary raw food supplies with you. I should like to stress once more that I have been told by several doctors that the general state of health of Soviet prisoners of war in other camps is considerably superior to that of ours. Doctors base this on the fact that in other camps prisoners of war receive raw food in addition to their meals—turnips, in one case, I am told, as these are not rationed. It is my opinion that a considerable amount of these turnips should therefore be procured at once and stored in a cellar or covered with earth. This would enable us to give supplementary raw food supplies not only to our Russian prisoners of war but also to the eastern workers. The matter is urgent since the harvest will soon be concluded.

[Stamp] Signed: LEHMANN

TRANSLATION OF DOCUMENT NIK–12356
PROSECUTION EXHIBIT 904

MEMORANDUM FROM DEFENDANT VON BUELOW TO DEFENDANT LEHMANN, 16 OCTOBER 1942, NOTING COMPLAINTS ABOUT TREATMENT OF PRISONERS OF WAR EMPLOYED AT KRUPP, AND ATTACHING A MEMORANDUM ON A TELEPHONE CALL FROM THE PRISONER OF WAR SECTION OF OKW

To: Dr. Lehmann

Cast Steel Works
16 October 1942

[Signature] LEHMANN
16 October

von Buelow/Stemmer
[Initial] I [Ihn]
22 October 1942

Subject: Prisoners of war

Attached please find a file note of my secretary, Mr. Stemmer, about yesterday's telephone call by Colonel Breyer of the High Command of the Armed Forces. Just now Captain Wieringhaus called me from the Service Command Muenster and said that General von Doeren [Doehren] the plenipotentiary for prisoners of war in service command VI, wants to pay us a visit. General von Doeren is at present traveling around; he (Captain W.) would therefore try to get into touch with him about this matter. I told Captain W. that at the beginning of next week we were expecting a visit from the Gauleiter Sauckel, and requested that the visit of General Doeren might not take place, if possible, until the second half of next week. I mentioned the call from Colonel Breyer, and told him that those complaints were certainly not justified. Besides, I was not the proper authority, but would pass on the matter to the competent offices in our firm. May I request you to take care of everything further.

[Signed] VON BUELOW

Cast Steel Works, 15 October 1942

File note.

Re: Telephone call by Colonel Breyer of OKW, Dept. PW's, Berlin

Colonel Breyer who wanted to talk to Mr. von Buelow, requested me to pass on the following to Mr. von Buelow:

OKW has lately received from their own offices and recently also in anonymous letters from the German population a considerable number of complaints about the treatment of prisoners of war at the firm Krupp (especially that they are being beaten, and furthermore that they do not receive the food and time off

that is due to them. Among other things the prisoners of war are said not to have received any potatoes for 6 weeks.) All those things would no longer occur anywhere else in Germany. OKW has already requested several times that full food rations should be issued to the prisoners. In addition if they have to perform heavy work, they must also get corresponding time off, the same as the German workers. Colonel Breyer also informed me that the conditions at Krupp would be looked into either by the service command or by the OKW itself. He had requested General v.d. Schulenburg on the occasion of a trip to call at Krupp in person concerning this matter; unfortunately this had not been possible.

I told Colonel Breyer that I could not judge the conditions but would pass on his information to Mr. von Buelow immediately.

[Signed] STEMMER

TRANSLATION OF DOCUMENT NIK-12358
PROSECUTION EXHIBIT 908

MEMORANDUM FROM KRUPP'S APPARATUS MANUFACTURE II TO KRUPP'S LABOR ALLOCATION OFFICE, 19 NOVEMBER 1942, NOTING THAT FOOD PROVIDED FOR RUSSIAN PRISONERS OF WAR WORKING ON PROCESSING OF AIRPLANE ARMOR PLATES IS "TOTALLY INADEQUATE"

Fried. Krupp
Aktiengesellschaft
Essen

Apparatus Manufacture II, 19 November 1942
Jg/Kr

To: Labor Allocation Office

Subject: Feeding of Russian prisoners of war

During the last few days we have again and again discovered that the food for the Russian prisoners of war, who in our plant are exclusively employed on heavy work, is totally inadequate. We have already expressed this in our letter to Mr. Ihn, dated 30 October 1942. We discover again and again that people who live on this diet always break down at work after a short time, and sometimes die. It is no help to us to get a few workers assigned to us after a long fight. For this heavy work (processing of airplane armor plates) we have to insist that the food is adequate enough to keep these workers actually with us.

[Signature illegible]

Copy to: Mr. Wolf, Dr. Beckmann

[Handwritten] Camp food supply, with the request for your opinion. Labor Allocation A,

Duplicate 23 November 1942

[Stamp] Signed: IHN

TRANSLATION OF DOCUMENT NIK–12359
PROSECUTION EXHIBIT 906

REPORT OF EICKMEIER OF KRUPP'S LABOR ALLOCATION OFFICE TO DEFENDANT LEHMANN, 30 OCTOBER 1942, CONCERNING THE GENERAL HEALTH OF RUSSIAN PRISONERS OF WAR AND NOTING THAT PRISONERS IN GOOD HEALTH UPON ARRIVAL ARE EXTRAORDINARILY WEAK A FEW WEEKS LATER

30 October 1942
Ei./Ka.

To Dr. Lehmann

Subject: Observations concerning the general state of health of the Russian prisoners of war (see also my reports of 13, 14, and 16 October re sick reports etc.)

On the occasion of my visit yesterday to the infirmary of the prisoners of war camp Raumerstrasse the camp doctor asked me through one of the guards to obtain an appropriate diet for those suffering from intestinal trouble. I told them to report the matter to the German army medical inspector and promised that I would also bring to the notice of my competent office the wish for the institution of a system of diet feeding for those suffering from intestinal diseases. The camp doctor also mentioned that prisoners of war in the infirmary and hospitals of the Stalags suffering from intestinal diseases receive corresponding diets and even white bread.

The general state of health and nutrition in all Russian prisoner of war camps is very unfavorable and is obvious to anybody who has an opportunity to observe those things. I have of course also attempted on the spot to find out the causes of this fact. In all Russian camps, members of the armed forces (among them veterans of the Russian campaign who certainly cannot be classed as friends of the Bolshevists) explained to me, that the food *as far as quantity was concerned* was insufficient, furthermore the food ought to be more substantial. Members of the armed forces who have already been for some time on prisoner guard duty declared

that they had on various occasions observed new transports of prisoners who, on arrival, were in the best of health and appeared sturdy and strong, but after only a few weeks were in an extraordinarily weakened condition. Army medical inspectors have also made remarks in the camps along these lines and stated that they had never met with such a bad general state of affairs in the case of the Russians as in the Krupp camps. In fact the prisoners returning from work make a completely worn-out and limp impression. Some prisoners just simply totter back into the camp. It must be taken into consideration that the prisoners have to march a considerable way to and from work in addition to the normal working hours. In my opinion the food should be improved by additional delivery of potatoes. (I also happened to hear from the guards that the prisoners at "Hoesch" get 3 liters of food). Furthermore, care should be taken that the prisoners receive their food from the plant at the start of the rest period and do not spend it waiting in a queue for the food to be given out.

On the part of the camp administration and also on the part of the plants strict care should be taken that the prisoners wash themselves enough. Furthermore enough paper should be provided in the toilets. I am convinced that many a case of intestinal catarrh will not then arise. On this occasion, I should like to mention that during the last few days I have several times, when riding in the streetcar, passed transports of prisoners and eastern workers which did not carry any head or rear lights. It would perhaps be a good thing to inform the plants by the emergency telephone that it is their responsibility to equip the work details with lamps. Complaints about this were also made by the camp administration.

[Signed] EICKMEIER

TRANSLATION OF DOCUMENT NIK-12361
PROSECUTION EXHIBIT 919

MEMORANDUM FROM DEFENDANT LEHMANN TO THE KRUPP BILLET ADMINISTRATION, 11 JANUARY 1943, NOTING A REQUEST FOR SLIT TRENCHES BECAUSE OF DISTURBANCES AMONG RUSSIAN PRISONERS OF WAR DURING A RECENT AIR RAID

Labor Allocation A
11 January 1943
Dr. Lehm./Kor.

Mr. Lauffer, Housing Administration
Subject: Slit trenches

On Saturday, 9 January at 2230 the officer of the guard, Captain Dahlmann, rang me up and told me that the guards in our prisoner of war camps in Raumerstrasse were barely able to suppress a revolt among the Russian prisoners of war on the occasion of the air raid on Essen. In the opinion of Captain Dahlmann the reason why the prisoners of war become restive is that in the Raumerstrasse camp there are no slit trenches. He urgently requests that such trenches be dug in order, among other things, not to disturb the surrounding civilian population in case of serious trouble.

[Stamp] Signed: LEHMANN

Copies to:

Messrs. Loeser, Goerens, A. von Bohlen, Ihn, Beusch, Girod, Kupke

TRANSLATION OF LEHMANN DOCUMENT 337
DEFENSE EXHIBIT 1158

MEMORANDUM FROM DEFENDANT LEHMANN TO THE KRUPP HOUSING ADMINISTRATION, 15 JANUARY 1943, CONCERNING FURTHER MEASURES FOR PROTECTION AGAINST AIR RAIDS

Resubmitted: 22 January 1943
Labor Allocation A

Tel. 41364
15 January 1943
Dr. Lehm/Kor.

Mr. Lauffer, Housing Administration
Subject: Measures for protection against air raids in the Herderstrasse prisoner of war camp

Yesterday Captain Fiene of the local guard command called me and said that slit trenches for protection against splinters

would have to be provided as soon as possible in the prisoner of war camps.

In the Herderstrasse camp he had discovered about 50–60 meters from the storage room, an entrance which leads to a tunnel about 60 meters long and 2.50 to 2.80 meters wide. This tunnel is supposed to belong to the Krupp firm, and according to Captain Fiene who himself is a builder, it could be made into a good air raid shelter with the help of a few workmen in about 1 week.

The guards were already making an air raid shelter for themselves. If necessary, help should be given here too.

I have already informed you of this by telephone and you promised to take action without delay and have all further steps taken. May I ask you, to inform me after the matter has been taken care of, as I promised Captain Feine to call him again.

[Stamp] Signed: LEHMANN

Carbon copy to Dr. Hansen

TRANSLATION OF IHN DOCUMENT 442
DEFENSE EXHIBIT 2695

MEMORANDUM FROM DEFENDANT LOESER TO DR. BEUSCH, 18 JANUARY 1943, REPORTING DISCUSSIONS WITH THE KRUPP VORSTAND ON REPLACEMENT OF BARRACKS OR LOCATING THE BARRACKS FURTHER AWAY FROM PLANTS

Cast Steel Works
Essen
18 January 1943

Copy

To Dr. Beusch

Today at the meeting of the Vorstand I also broached the subject of the evacuation offices as follows:

Everybody is first to see to it that his department conducts the necessary deliberations and then to get in touch with you, thereafter, the purpose being that the building administration not only obtains, but also keeps up to date a survey, and furthermore to enable it to intervene at all times. Perhaps offices can also be taken into consideration, especially in the lower stories store rooms etc., which are available.

In conclusion we also discussed the matter of the barracks, and that from a twofold viewpoint—

1. Speedy replacement of the burned-down barracks, and catching up with the program, also,

2. Since the camps here will always be in danger, to consider

whether we could go farther away to sites which are less endangered and further removed from the plant.* Naturally, these camps would be completed only at a later date. Nevertheless, it may be of interest with regard to a presumably extended duration of the war.

Is "Stalag" [prisoner of war stationary camp] in a position to help us in the whole affair?

Signed: LOESER

For information to:
Mr. Becker
Mr. Lauffer

Cast Steel Works, 20 January 1943 [Illegible signature]

TRANSLATION OF IHN DOCUMENT 996
DEFENSE EXHIBIT 2692

COMPILATION OF THE CITY ENGINEER OF ESSEN, 6 MARCH 1948, BASED UPON CONTEMPORANEOUS REPORTS, SHOWING NUMBER OF FOREIGN WORKERS AND PRISONERS OF WAR KILLED BY ALLIED AIR RAIDS IN THE ESSEN AREA, 28 JULY 1942–29 NOVEMBER 1944

Excerpts from the individual reports on damages made by the local air raid protection headquarters to the chief of police concerning air raids on the area of the city of Essen in which also foreigners were killed and injured.

According to these damage reports prisoners of war and foreign workers were killed and/or injured during the period from 28 July 1942 until 29 November 1944 as enumerated below:

No damage reports are available for the air raids made after 29 November 1944.

Air raid of 28 July 1942 about 1403 hours—
2 dead, including 1 Russian worker killed

Air raid of 3 January 1943 about 1945 and 2000 hours—
19 dead
81 injured, 1 French civilian worker severely wounded

Air raid of 9 January 1943, between 1920 and 1940 hours—
21 dead, including 1 Russian civilian worker killed
90 wounded

Air raid of 13 January 1943, between 1925 and 1945 hours—
62 dead, including 11 French prisoners of war and 6 foreign workers killed

* For a listing of camps destroyed by air raids, see Document NIK-10214, Prosecution Exhibit 1378, reproduced above in section VIII B 1. For a listing of foreign workers and prisoners of war killed by Allied air raids in the Essen area, see Ihn Document 996, Defense Exhibit 2692, reproduced immediately following.

903432—51——79

113 injured including 30 French prisoners of war and 42 foreign workers injured

Air raid of 21 January 1943 between 1942 and 2002 hours—

2 dead, including 1 foreign worker killed

24 injured

Air raid of 5 March 1943 between 2100 and 2145 hours—

461 dead, including 62 foreigners killed

1593 injured

Air raid of 12 March 1943 between 2115 and 2150 hours and between 2200 and 2216 hours—

169 dead, including 3 prisoners of war and 48 foreigners killed

351 injured

Air raid of 29 March 1943 about 2240 hours—

1 dead

5 injured, including 1 eastern and 1 French civilian worker injured

Air raid of 3 April 1943 between 2244 and 2316 hours—

118 dead, including 16 French civilian workers killed

458 injured

Air raid of 27 April 1943 between 0219 and 0230 hours—

11 dead, including 3 French prisoners of war killed

50 injured, including 12 prisoners of war and 2 foreign workers injured

Air raid of 28 May 1943 between 0045 and 0200 hours—

196 dead, including 1 prisoner of war and 8 foreign workers killed

547 injured, including 3 prisoners of war and 50 foreign workers injured

Air raid of 25–26 July 1943 between 0030 and 0155 hours—

500 dead, including 42 prisoners of war and 131 foreigners killed

1,805 injured, including 1 prisoner of war and 91 foreigners injured

Air raid of 29 February 1944 at about 2034 hours—

8 killed, including 1 foreigner

104 injured

Air raid of 26 March 1944 from 2157 till 2215 hours—

550 killed, including 53 prisoners of war and 74 foreign workers

1,569 injured, including 3 prisoners of war and 48 foreign workers

Air raid of 27 April 1944 from [0]125 to [0]145 hours—

306 killed, including 1 prisoner of war and 38 foreign workers

1,224 injured, including 9 foreign workers

Air raid of 13 June 1944 from [0]059 till [0]109 hours—
37 killed, including 24 prisoners of war
59 injured, including 31 prisoners of war
Air raid of 30 September from 1304 till 1326 hours—
68 killed, including 9 foreign workers
83 injured, including 8 foreign workers
Air raid of 23 October 1944 from 1929 till 2015 hours—
662 killed, including 91 foreign workers
569 injured, including 45 foreign workers
Air raid of 25 October 1944 from 1525 till 1550 hours—
820 killed, including 2 prisoners of war and 99 foreign workers
643 injured including 2 prisoners of war and 18 foreign workers
Air raid of 31 October 1944 from 1510 till 1512 hours—
1 killed
2 eastern workers injured
Air raid of 29 November 1944 from 0530 till 0547 hours—
135 killed, including 3 foreign workers
207 injured, including 8 foreign workers

I herewith certify that these statements taken from the reports of damage are correct.

Essen, 6 March 1948

[Signed] GROSS
City Engineer (Gross)
Construction Control Office
St. A. 66

[Seal]

TRANSLATION OF LEHMANN DOCUMENT 538
DEFENSE EXHIBIT 1199

MEMORANDUM FROM EICKMEIER TO DEFENDANT LEHMANN, 30 JANUARY 1943, CONCERNING KRUPP'S EFFORTS TO IMPROVE THE FOOD SUPPLIED TO RUSSIAN PRISONERS OF WAR

Labor Allocation A
30 January 1943
Ei./Sch.V.
[Initials] Tro. 30 January

To: *Dr. Lehmann*

Subject: Food supplies for Russian prisoners of war

I have spoken to Mr. Hahn regarding the improvement of the food supplied to Russian prisoners of war. He emphasized that

everything possible was being done in this respect. *Moreover, the local economic office had utterly refused to make further allocations; it would be useless to approach them again.* Pursuant to Sauckel's speech, the camp food supply administration made written application to Berlin, however so far no answer had been received. There remains but one thing to be done; an application would have to be made to Berlin on the part of the firm. In order to bring* some variety into the food supplies, Mr. Hahn

* Settled by telephone, 15 February 1943.

stated that he was in agreement with my suggestion, namely that *on Sundays, instead of the usual stew, the potatoes should be distributed separately and moreover in their skins.** He was very grateful to you for offering him the 500 or 600 Zentner [65,000 pounds] of turnips. When he received these he would distribute them as uncooked food in addition to the other rations.

* Food now cooked separately (potatoes and vegetables by themselves) twice a week.

[Signed] EICKMEIER

[Handwritten marginal note]

The camp food supply administration should inform us before making such applications. Also I have not seen the copy of the purchase.

[Signed] LEHMANN

10 February 1943

TRANSLATION OF DOCUMENT NI-2917*
PROSECUTION EXHIBIT 1521

LETTER FROM THE LABOR DETAIL LEADER AT KRUPP'S RAUMERSTRASSE CAMP TO KRUPP'S LOCOMOTIVE WORKS, 26 FEBRUARY 1944, CONCERNING THE BEATING OF A RUSSIAN PRISONER OF WAR BY KRUPP'S PLANT POLICE

PW Labor Detail No. 1203 Essen, 26 February 1944
Essen (Ruhr), Raumerstrasse
Tel. 35224
To Locomotive Construction Plant of Messrs. Krupp
Essen

Subject: Ill-treatment of the Soviet Russian prisoner of war 326/45084 Maksin, Alex

Reference: Your letter of 21 February 1944 reference No. Mi/Ge.

With reference to your above-mentioned letter we determine the following:

* Josef Lorenz, a member of Krupp's plant police, gave an affidavit (von Buelow 1002, Def. Ex. 3117) concerning this document, reproduced in section VIII G 3.

While dispensing beverages, shortly before the breakfast interval, several workers stood in line to buy some beverages for refreshment. Among these were Belgian civilian workers, several Soviet Russian prisoners of war and Italian interned civilian workers. Suddenly an Italian civilian worker appeared to place himself without hesitation in front of the queue. He was ordered by the Belgian worker in charge to file to the rear, but in spite of this order the Italian refused to do so. Thereupon the Belgian hit the Italian. The Russian prisoner of war Maksin stood in the immediate vicinity and said to the Belgian that hitting was no good, because we are all working comrades and all employees of the factory. This probably was too much for the Belgian who thereupon attacked the prisoner of war Maksin. Maksin repeated then, even though he was being struck, that hitting was no good. This also was in vain, the Belgian continued to hit. Thereupon the Russian prisoner of war began to defend himself and hit the Belgian in the face. The latter summoned the plant police, and Maksin was taken into a room by him and a member of the plant police and was beaten in such a manner that even today he is still confined to the sick ward and unable to work.

We, on our part, state that Maksin is a very good and disciplined prisoner of war and that he is assigned as foreman of the work detail. If orders have already been issued that prisoners of war are not to be beaten by auxiliary police, then it should certainly not be permitted by foreigners.

While other plants are very short of workers, prisoners of war are ill-treated in your plant in such a manner that they have to miss several days' work for the armament industry.

We request clarification of the true facts.

[Signature illegible]
Sergeant and Labor Detail Leader.

[Stamp]
Plant Police
29/2/44_____[Initials] W [Wilshaus]
Diary No._____
By _____
Copies:
Plant Police
Labor Allocation I

TRANSLATION OF IHN DOCUMENT 121
DEFENSE EXHIBIT 914

CIRCULAR FROM DEFENDANT IHN TO KRUPP'S PLANT LEADERS, 7 OCTOBER 1942, STATING THAT ACTS OF VIOLENCE AGAINST PRISONERS OF WAR BY GERMAN PERSONNEL ARE FORBIDDEN AND SUBJECT TO PUNISHMENT

Main Administration
No. A 2

Cast Steel Works
7 October 1942
Labor Allocation A
Tr/Voe

To the Plant Leaders

Subject: Treatment of prisoners of war

The employment of prisoners of war results in close contact between the German personnel and the prisoners in our plants. Recently, a few workers have unfortunately allowed themselves occasionally to be led into excesses and ill-treatment of prisoners of war.

Actions against prisoners of war who show lack of discipline or a hostile attitude, have been declared to be exclusively a matter for the military authorities. If cases like that occur, they will be reported via the management to the Labor Allocation A, which will, in turn, report them to the proper military authorities.

You are requested to inform the German personnel once more that any act of violence against prisoners of war is forbidden and will be punished. The prisoners are to be treated correctly, but with the understood reserve which is fitting towards the enemy.

Fried. Krupp
Aktiengesellschaft
[Signed] IHN

TRANSLATION OF DOCUMENT NIK–4378
PROSECUTION EXHIBIT 1591

LETTER FROM A MILITARY COURT JUDGE TO KRUPP'S PLANT POLICE, 23 MAY 1944, CONCERNING THE SHOOTING OF A RUSSIAN PRISONER OF WAR BY A MEMBER OF KRUPP'S PLANT POLICE, AND A KRUPP MEMORANDUM THEREON

Court of Division No. 526

A. L. VII No. 98/44

Wuppertal, 23 May 1944
Zur Waldesruh 172
Telephone: 30581

To the Plant Police of
the firm of Krupp
in Essen

[Stamp]
Plant Police
2 June 1944
Diary No.
Official concerned: [Initial] W. [Wilshaus]

Subject: Death of the Soviet Russian prisoner of war 326/39004, Schosow, Sergei, caused by shooting

On 29 April 1944 a work squad of the special camp Dechenschule* was engaged in clearing up on the site of the Krupp bakery which was destroyed by enemy action. Among others, the Russian prisoner of war Sergei Schosow was a member of this work squad. This prisoner of war tried on several occasions to steal bread. He was repeatedly admonished by the guard Wilhelm Jacke. When this had no effect the guard used his rifle, after he had warned the prisoner that if he would not leave the place he would shoot. This threat also had no effect. The prisoner of war was killed by a shot through the breast. According to the investigations made, Wilhelm Jacke acted according to regulations and there is no cause for taking action against him. Submitted for your information.

Prepared:
[Signature illegible]
Heeresjustizinspektor [Judge advocate official with equivalent rank of first lieutenant]

By Order:
[Signed] Schmitz
Kriegsgerichtsrat [Judge advocate official with equivalent rank of major]

* For further materials on the Dechenschule camp, see section VIII D, above.

[Stamp]

No: 1451
Arrived 14 June 1944

To Mr. von Buelow:

Submitted for your information and return.

However, I do not consider it fitting, as you once said to me, to praise Jacke in public. I am going to send for him and I will inform him of the contents of the letter mentioned. That, I think, should put an end to the matter.

[Signed] WILSHAUS

Plant Police, 10 June 1944
Ws/Va. 763

[Handwritten notes] To Mr. Wilshaus: agreed, 14 June.

[Signed] VON BUELOW

To order Jacke to appear.
20 June 1944

1. Guard Jacke has been informed about the mentioned letter by Mr. Wilshaus.
2. To the files.

TRANSLATION OF DOCUMENT D-335
PROSECUTION EXHIBIT 914

REPORT OF DR. STINNESBECK, MEDICAL SUPERVISOR FOR THE NOEGGERATHSTRASSE CAMP, 12 JUNE 1944, CONCERNING CONDITIONS OF FRENCH PRISONERS OF WAR AFTER THE CAMP WAS LARGELY DESTROYED BY AN AIR RAID

Essen, 12 June 1944

Enclosure B

To Dr. Jaeger, Gau [area] medical officer for [prisoner of war] camps

In the middle of May I took over the medical supervision of prisoner of war camp No. 1420 in Noeggerathstrasse. 644 French prisoners of war are quartered in this camp.

The camp was destroyed to a large extent during the air raid on 27 April of this year; the present conditions are intolerable.

315 prisoners are still accommodated in the camp, 170 of them however, are no longer housed in huts, but in a railway tunnel of the Essen-Muelheim line which runs along Grunertstrasse. This tunnel is damp and not suitable for the permanent accommodation of human beings. The rest of the prisoners of war have

been accommodated in ten different workshops of the Krupp plants.

Preliminary medical attention is given by a French army medical officer who takes great pains in attending to the needs of his compatriots. When they are sick, the men accommodated in the Krupp workshops also have to be brought to the sick call. This sick call takes place in the toilet of a burnt-out public house outside the camp. The beds of four French medical orderlies are in the former men's lavatory. Two wooden bunks, one on top of the other, are provided for in-patients. Medical treatment is generally given out of doors. In wet weather, it has to be given in the narrow room mentioned above. These are intolerable conditions. Tables, chairs, cupboard, and water are all lacking. It is impossible to keep a medical record.

Supplies of drugs and wound dressings are very scarce, although it occurs fairly frequently that men who have been seriously injured in the workshops have to be brought here for first aid, and have to have their wounds dressed before they can be transferred to hospitals. The food, too, gives rise to vigorous complaints which the camp guards confirm as being justified.

Under these conditions sickness and the falling-off of manpower are only to be expected.

It is an urgent necessity that huts should be built for the accommodation of the prisoners and that a medical service hut should be constructed so that proper medical treatment may be given to the sick.

I request that the necessary steps be taken.

[Signed] STINNESBECK

PARTIAL TRANSLATION OF DOCUMENT NIK–9800
PROSECUTION EXHIBIT 1230

EXTRACT FROM MINUTES OF A MEETING OF KRUPP SPECIAL LABOR ALLOCATION ENGINEERS ON 21 JUNE 1944, CONCERNING REFUSAL OF FRENCH PRISONERS OF WAR TO WORK WHEN FOOD WAS NOT DELIVERED

[Stamp]

Workers Protection
27 June 1944
As 8/1713

Labor Allocation J, 22 June 1944
Sp/Pf.

Minutes of

the Special Labor Allocation Engineers' meeting,

21 June 1944

* * * * * * *

3. Refusal to work by French prisoners of war—In Rolling Mill 2 the French prisoners of war did not appear for work because owing to a vehicle having broken down, the food did not arrive. Under all circumstances care must be taken that foreigners do their work even, if for once, the food is not delivered. In order to prevent such occurrences, an arrangement has been made between the liaison officer of the Stalag and the Labor Allocation Office A that every week, wishes and complaints of the plants and the military offices will be exchanged and settled.

Mr. Trockel, Labor Allocation Office A will seek to clarify which punitive measures may be taken by the plants in order to teach refractory foreigners to work.

* * * * * * *

[Signed] SPECHT

TRANSLATION OF DOCUMENT D–339
PROSECUTION EXHIBIT 917

CONFIDENTIAL REPORT OF THE CAMP AND PLANT PHYSICIAN DR. JAEGER, TO DEFENDANTS IHN AND KUPKE AND OTHERS, 2 SEPTEMBER 1944, REPORTING ON MEDICAL, FOOD, AND HOUSING CONDITIONS AT NOEGGERATHSTRASSE PRISONER OF WAR CAMP

Medical Office
Main Administration for Workers' Camps
2 September 1944, Dr. Jae/fz

Strictly confidential

Special Medical Report

The prisoner of war camp in the Noeggerathstrasse is in a terrible condition. The people live in ash bins, dog kennels, old baking ovens and in self-made huts.

The food is barely sufficient. Krupp is responsible for housing and feeding. The supply of medicine and bandages is so extremely bad that proper medical treatment was not possible in many cases. For this condition the [army] PW camp administration is responsible. It is astonishing that the number of sick is not higher than it is, and it varies between 9 and 10 percent. It is also understandable that there is not much willingness to work, when conditions are such as are mentioned above. When complaints are made that many of the prisoners of war are absent from work for 1 or 2 days, the camp can be blamed to a great extent for having insufficient organization.

I have ordered, with the consent of the camp doctor, Dr. Stinnesbeck, that from time to time the sick who need special medical treatment be assembled and brought to *one* special doctor on 1 day of the week, with the exception, of course, of urgent cases. Eye, ear, and dental treatment come into consideration. It happens that people who should go to a specialist hang around the camp for 4 or 5 days on account of lack of accompanying [guard] personnel, and the camp commandant declares he has not the accompanying personnel—that is lack of organization and can no longer be offered as an excuse. In the meantime, in order to get some sort of arrangement, the camp commandant has to provide guards on Thursday of each week. For the time being I shall supervise the measures personally each Friday. In our other camp the measures taken for a special medical treatment on a certain day have answered very well.

(Signed) DR. JAEGER
Camp and Plant Physician

Copies to:
Ihn
Dr. Beusch
Dr. Wiele
Kupke

2. PROSECUTION TESTIMONY AND AFFIDAVITS

TRANSLATION OF DOCUMENT NIK-12917
PROSECUTION EXHIBIT 1164

AFFIDAVIT OF PAUL STARK,* KRUPP FOREMAN, 18 NOVEMBER 1947, CONCERNING THE USE OF RUSSIAN PRISONERS OF WAR AND ITALIAN MILITARY DETAINEES ON TANK PRODUCTION

I, Paul Stark, Essen, Papenberghang 52, after having been duly warned that false statements on my part will render me liable to punishment herewith declare the following under oath, voluntarily, and under no duress:

I have been employed since 1938 up to the end of the war in armor construction plant 4 of the Cast Steel Works of the Fried. Krupp in Essen, first as electric welder, then as foreman and from 1943 as master foreman. I had to supervise a group of workers of about 90 to 100 men. The work of my group consisted of welding together tank hulls in the first years tanks III and IV and later Tiger tanks.

As from 1943 approximately 80 Russian prisoners of war and Italian military internees came into the plant. They were first trained in a training workshop and examined as to their suitability and after their training was completed, around 15–20 Russian prisoners of war and Italian military internees were assigned to my group for work. They worked with the other workers, Germans and foreign, of my group on welding of tanks, further they were employed on smaller jobs which did not belong to the regular work program.

I have carefully read the above page of this affidavit, have made the necessary correction in my own handwriting, and countersigned same with my initials, and herewith declare under oath that this statement contains the pure truth to the best of my knowledge and belief.

[Signed] PAUL STARK

* Stark's cross-examination concerning this affidavit is reproduced immediately below.

EXTRACT OF TESTIMONY OF THE PROSECUTION WITNESS PAUL STARK CONCERNING HIS AFFIDAVIT[1]

* * * * * * *

CROSS-EXAMINATION

DR. PESCHKE (counsel for the defendant Houdremont): Mr. Stark, you state in your affidavit (*NIK–12917, Pros. Ex. 1164*)[2] that the groups subordinated to you, worked in welding together tank parts, is that right?

WITNESS STARK: Yes.

Q. Would you please explain to us welding together of tanks?

A. The individual tank components were assembled in the forge shop, and then they were taken to another plant where they were electrically welded together by means of electrodes.

Q. What do you mean by the individual component parts?

A. The tank hull consisted of various individual parts that were fitted together in the forge, then they were taken to the welding shop, and then they were welded together.

Q. What do you mean by tanks? Are they armored vehicles?

A. Yes, they are armored vehicles in unfinished construction, without any machine parts built into them yet.

Q. What do you mean when you say unfinished armored vehicles?

A. That is a tank on which the first jobs had been done, without any transmission and without any guns. It's the first job to fit these tank pieces together.

Q. And the further development of the tanks was not undertaken in your plant?

A. No, we only fabricated the hull, and the inner parts and the machinery were built into this tank in another place.

Q. How many stages did this work pass through before the tank was completely finished?

A. I don't know. I merely know that the tank parts that had been fitted together were sent away to other places where they were worked on some more.

Q. Then the firm of Krupp did not produce finished tanks?

A. Not in our plant.

Q. You said that they were sent to other places, other cities.

A. I only know that they were sent to Magdeburg.

Q. You said that in your column 13 to 20 Russian prisoners of war and so-called Italian military internees have been working in your group?

---

[1] Complete testimony is recorded in the mimeographed transcript, 31 January 1948, pp. 2896–2899.

[2] Reproduced immediately above.

A. Yes.

Q. How did you know that these people were Russian prisoners of war?

A. From their uniform.

Q. You had been told that these people were Russians?

A. Yes, we were told that we were supposed to receive some Russian prisoners of war.

Q. Did these prisoners of war work on their own or did they work with the Germans?

A. Yes, they worked with the Germans.

Q. Did certain groups always work together at the welding jobs?

A. No, one particular group worked together. Everybody had his assigned place of work and everybody worked on his own.

Q. You further state that the Russian prisoners of war and the Italian military internees were used for smaller jobs which did not belong to the regular work program. What do you understand by that?

A. This is the way it was. Those prisoners of war who were not sufficiently qualified for this work, were used for other work which had nothing to do with the armament program, let's say, for welding the frames or the shields or window frames that had been broken. They were used for repair work.

DR. PESCHKE: Thank you very much. I have no further questions.

DR. POHLE: (counsel for the defendant von Buelow): I have a few questions.

Witness, how many Italian military internees were employed there?

WITNESS STARK: As I already stated, I am not able to remember the exact figure because this has happened quite a while ago. I left some leeway in the figures and I cannot tell you exactly today how many they were. There may have been perhaps four to eight in my department or four to six. I can't say it exactly.

Q. Were they later given civilian working status?

A. I cannot say.

Q. Were British prisoners of war working with you?

A. No.

Q. Were French prisoners of war working with you?

A. No.

DR. POHLE: No further questions.

COMMISSIONER DIETZ: Any further questions by defense counsel, if not, does the prosecution have anything further of this witness?

MR. RAGLAND: No redirect, Your Honor.

COMMISSIONER DIETZ: That being the case the witness may be excused.

TRANSLATION OF DOCUMENT NIK–12919
PROSECUTION EXHIBIT 1166

AFFIDAVIT OF WILHELM JOHN, KRUPP MASTER FOREMAN, 24 NOVEMBER 1947, CONCERNING USE OF PRISONERS OF WAR IN PRODUCTION OF VARIOUS ITEMS FOR THE ARMY, NAVY, AND AIR FORCE[1]

I, Wilhelm John, Oberhausen, Wunderstr. 19, having been duly warned that false statements on my part will render me liable to punishment, herewith state the following on oath, voluntarily and without coercion:

From November 1943 to March 1945 I worked as master foreman in the die-forge shop, Essen, of the Cast Steel Works of the firm Fried. Krupp, Essen. During this period, about 40 Russian and 6 French prisoners of war worked in the die-forge shop. Four of the French prisoners of war assigned there worked on a rolling mill which produced machine gun barrels and 20 mm. antiaircraft gun barrels.

We gave the Russian prisoners of war a little test; and they were then employed on production according to their abilities. A few of them worked on die forgings which were submarine parts, while others worked at presses which pressed blades for jet-propelled pursuit planes for the Luftwaffe.

I have carefully read this one page of the above affidavit and signed it personally, have made the necessary corrections in my own handwriting and countersigned them with my initials and I declare herewith on oath, that I have, in this statement, told the pure truth to the best of my knowledge and belief.

[Signed] WILHELM JOHN

EXTRACTS FROM THE TESTIMONY OF PROSECUTION WITNESS WILHELM JOHN BEFORE COMMISSION II, CONCERNING HIS AFFIDAVIT[2]

* * * * * * *

CROSS-EXAMINATION

DR. PESCHKE (counsel for the defendant Houdremont): Mr. John, in your affidavit (*NIK–12919, Pros. Ex. 1166*)[3] you say that the French prisoners of war worked on a rolling mill which pro-

[1] Extracts from John's cross-examination concerning this affidavit are reproduced immediately below.

[2] Complete testimony is recorded in the mimeographed transcript, 31 January 1948, pp. 2828–2841.

[3] Reproduced immediately above.

duced machine gun barrels and 20 millimeter antiaircraft gun barrels. Will you give us an explanation what exactly was manufactured in that rolling mill?

WITNESS JOHN: This was a special roller which was suitable only for machine gun barrels or, if material was available for antiaircraft barrels, then for antiaircraft barrels. Six men worked on this shift, and at one time these were four Frenchmen and two Germans, and another time two Russian prisoners of war, two Ukrainians and, likewise, two Germans. Nothing else was produced in this rolling mill.

Q. And the machine gun barrel, was it finished in its entirety there?

A. No, it was only rolled, that is, the raw material, the barrel was taken for rolling purposes and then it was processed further. This only involved seamless change.

Q. And of what type was the raw material that was used there?

A. Usually it was just plain round steel.

Q. And that was rolled?

A. Yes.

Q. But the actual production of the machine gun barrels and the antiaircraft gun barrels was done elsewhere?

A. The further processing was done elsewhere, yes. This was only the forging work, the forging technical work.

* * * * * * *

Q. And then you continue to say these people worked at presses which pressed lathes for jet-propelled pursuit planes for the Luftwaffe [air force]. Maybe you can elucidate on that. What did these things look like?

A. Yes, this is also a raw material; namely, the raw blade that is a turbine blade was pressed in our presses from the raw material and for further processing these items were sent via Essen to the aviation plant. They were only pressed as a raw material production, nothing else.

Q. And could you recognize at that stage that these pieces were destined for airplanes?

A. Yes, as lathes, as turbine blades for airplanes you might have recognized if you were an expert, of course; but that the blades were specifically destined for airplanes you couldn't say that.

DR. PESCHKE: Thank you, Mr. Commissioner; I have no further questions.

COMMISSIONER DIETZ: Any further cross-examination of this witness from defense counsel? Dr. Pohle?

DR. POHLE (counsel for the defendant von Buelow): Mr.

John, from November 1943 to March 1945 you worked in the die-forge shop?

WITNESS JOHN: Yes, that is right.

Q. Throughout this time were these 40 Russian prisoners of war employed there?

A. Yes. I can't say for sure whether all these people were there when I came there, but in any case from the spring of 1944 onward they were definitely there.

Q. Were any of them there before you came?

A. Yes, there were some there when I came.

Q. Now, what about the 6 French prisoners of war? When did they arrive?

A. They were already there when I arrived.

Q. And did they stay all the time while you were in the die-forge shop?

A. Yes, they did.

Q. Later on French prisoners of war were made parties to free employment contracts. Do you know anything about that?

A. That was not the case in our plant.

* * * * * * *

EXTRACTS FROM THE TESTIMONY OF PROSECUTION WITNESS HENRI BUSSON*

DIRECT EXAMINATION

MR. RAGLAND: Mr. Witness, will you state your full name and age?

WITNESS BUSSON: Henri Busson; 35.

Q. What is your nationality?

A. French.

Q. What is your present residence?

A. Paris, 45 Rue de Santoche.

Q. What is your present occupation or job?

A. I work in the newspaper distribution service.

Q. In Paris?

A. Yes, in Paris.

Q. Did you hold the same job in 1939?

A. Yes.

Q. Witness, were you inducted into the French Army in August 1939?

A. Yes, I was inducted on the 26 of August 1939.

Q. Into what branch of the army?

A. To the 24th Infantry Regiment.

* Complete testimony is recorded in mimeographed transcript, 10 February 1948, pp. 3641–3687.

Q. What was your rank?

A. Private.

Q. Did you hold this same rank throughout your service in the army?

A. Yes, always.

Q. While serving in the French Army, were you captured by the German armed forces?

A. Yes, by the German armed forces.

Q. Can you tell me the date or the approximate date of your capture?

A. I was captured on 18 June 1940 at Binges, a little village near Dijon.

Q. After your capture, did you stay in various prisoner of war camps or other places for prisoners of war until approximately December 1941?

A. First I stayed at Dijon for some time; then in a prisoner of war camp at Colmar; then I was sent to the camp in Emir in Germany; from there to the Stalag at Krefeld; and then I was sent to Essen in December 1941.

Q. You were sent to Essen in December 1941?

A. On 22 December 1941 we arrived at Essen, at the camp of Kraemerplatz.

PRESIDING JUDGE ANDERSON: In which camp was that?

WITNESS BUSSON: The camp of Kraemerplatz.

MR. RAGLAND: Now before we discuss the places at which you worked, the type of work you did, and conditions of work, will you briefly describe to the Court the camps or other places at which you lived as a prisoner of war while in Essen?

A. When we arrived at Essen we were sent to the Kraemerplatz camp—a camp in which there were about 600 prisoners of war. We stayed there for approximately 2 months when we were sent in March 1942 to another camp at the Bottroperstrasse, where there were 2,000 prisoners of war. In that camp we stayed for about a year until March 1943 when the camp was burned during an air raid; thereupon we were transferred to another camp at Noeggerathstrasse. There we stayed until the end; however, twice after this camp was destroyed we had to stay in the factory.

Q. You mentioned "in the factory." In what factory?

A. At the factory: Forging and Pressing Works No. 52.

Q. Do you know whether this was a Krupp factory?

A. Yes, that was a Krupp factory.

Q. What was the location of the first camp which you mentioned—the camp Kraemerplatz—with respect to factories in

Essen? Was it closer or a considerable distance from the factories?

A. At the Kraemerplatz camp we had factories all around us.

Q. And how about the next camp, the camp Bottrop?

A. At the Bottrop camp the nearest factories were about 150 to 200 yards away.

Q. There were factories within a range of the distance which you mentioned?

A. Within that range there were factories.

Q. Were there any factories close to the third camp which you mentioned?

A. The factories were further away. They were about 1–2 kilometers distance.

Q. Was there any railroad or railroad station close to the third camp?

A. Yes, there was a railway line, and I know that because when there was an air raid we went under a tunnel by way of sheltering us.

Q. You mentioned staying in the Krupp factory—or living in the Krupp factory for certain periods of time. What was the total period of time that you lived in the factory?

A. The first time we stayed about 5 weeks and the second time almost 2 months—6 weeks to 2 months.

Q. You mentioned approximately 600 prisoners of war at the camp Kraemerplatz, approximately 2,000 prisoners of war at camp Bottrop. How many prisoners of war were at the third camp that you mentioned?

A. In the third camp it was a little less than at the Bottrop [camp], about 1,200 to 1,500.

Q. What was the nationality of these prisoners of war at the various camps?

A. They were all French prisoners of war.

Q. It's my understanding from your testimony that you arrived in Essen on or about 22 December 1941. Were you told at that time where you would be assigned to work?

A. The next day.

Q. Where were you told you would be assigned?

A. I was told, "You, Busson, you are assigned to the Forge and Press Works No. 52."

Q. Was Forge Works No. 52—are you sure of the number 52? What was the plant called? Did it have a name, the camp at which you actually worked?

A. No, the only name which I knew was this Schmiede-Presswerk, [forge and press works].

* * * * * * *

Q. Witness, will you inform the Court as to the type of work which was done at the press works?

A. The forge and press works was composed of 9 steam hammers and 9 steam presses.

Q. Now will you describe a bit more fully as to the actual operation, that you worked on and that type of information?

May I suggest—the witness is apparently describing by pencil, if he could in words give us a rough general picture.

PRESIDING JUDGE ANDERSON: I expect you better let him go. The shortest way is to let him do it, I expect.

MR. RAGLAND: Yes, Your Honor.

WITNESS BUSSON: We were to get large pieces of case steel which would be cut in halves. The particular steam hammer I was working at had the number 42. These half pieces each of which were being transformed in the rough form of a cannon, that is, of a gun barrel, were formed for about a half hour and after a half hour we had the outward shape of a 75 mm. cannon. The length was about 15 feet and the form was roughly—

Q. Let me see whether I understand that correctly. You received in this shop large pieces of steel. You received first large pieces of steel, is that correct?

A. Yes.

Q. How large were these or what was the shape of this steel?

A. They were long cast cylinders of about 5 feet long and they were round.

Q. And those long large pieces of steel were put under press hammers, is that correct?

A. When these lumps were white hot they were withdrawn from the stove from the furnace, lengthened, cut in two, put back into the furnace and when they were white hot again we would take them out with the pinchers and then we would work on them with the steel hammer.

Q. Then what would happen once it left your particular shop, once you had completed your operation?

A. Once we had completed our part of the operation the cannon would go to another part of the factory where it was polished, rounded up and perforated.

Q. Well, how did you know that the work which you did was work going into a gun barrel? How would you know that this product ultimately became a gun barrel?

A. Because in the camp with the other PW's we would talk. We would say, I'm doing this and the other one would say, I'm doing this kind of work, and we could see completely how the process was and how the gun was eventually produced.

Q. After the further work had been done on the barrel, on the gun, did it ever come back to your plant for any work on it?

A. Yes, it would happen once in a while, for instance, that the gun was not completely straight. Then it would be sent back to us. We would heat it but not until it was white hot, put it on the press, and straighten it out.

Q. And you could tell at that time that it was a gun barrel?

A. Yes, then we could see that it really was a gun barrel.

Q. How many other prisoners of war were working in the press works with you?

A. Taking together the steam hammers and the steam presses we were about 30 French and 20 Russian PW's.

* * * * * * *

Q. Witness, at the time of the noon recess, we were discussing the work done at the press works or forge and press works, and you were describing the type of work done. May I ask you, was this difficult work or dangerous work?

A. It was very difficult and very dangerous work, and particularly very tiring work.

Q. Well, will you give a fuller statement as to the basis of your statement that it was dangerous work?

A. One of the reasons why it was very dangerous was that the steel was not always flawless, and when there was a flaw in the steel, and the steel hammer, that is, the piston would fall down on it, then the steel would split, and the part would split off and we might be hit by it. That is why it was very dangerous. We had several accidents caused by that.

Q. Were there any other or additional reasons why the work was dangerous?

A. Another reason was that when we had to get these steel pieces out of the furnaces, we had to approach very closely to the furnaces with those pincers, and that was very dangerous because you could get burned. I got burned once in the face, and I had a scar for more than a year after my return to France.

Q. Was it work which would normally require special skill or training?

A. There was one German worker who was a specialized worker. He was in charge of this steam hammer and of the 6 or 7 people, or 8 people, who would work at the steam hammer. And also at the beginning there were three or four Germans who worked with us who were skilled workers, and we would then by and by acquire the necessary knowledge about it and replace these Germans later on.

Q. What was the—do you know, Witness, what was the peacetime occupation of the prisoners of war who were working on this work?

A. As far as I was concerned, I had been a newspaper employee. One of my comrades was a pastry baker, another one was a notary. There were all sorts of office employees, but I know there was not a blacksmith among them.

Q. Except for such training, if it may be called training, that you have just indicated, did you have other training for the work which was required of you?

A. We had no training whatsoever prior to our starting to work there.

Q. Do you know whether the German workers who were doing similar work were skilled workers?

A. Yes, in general, they were skilled workers; but there were two or three young ones among them, too, who had to learn.

Q. You have—

A. They were blacksmith workers, forge workers.

Q. You have mentioned one injury which you received while doing this work. Did you on any occasion receive any other serious injury of any sort?

A. I was injured, yes, apart from that, and there were also several of my comrades who were injured by these pieces of steel springing away because of flaws. One among them was sent to the hospital, and we didn't see him again. He was even declared incapacitated by that.

Q. Will you tell the Court a bit more about the injury which you received?

A. I was injured in Germany in March 1944. I was holding the pincers, and we were holding this big piece of steel on the underplate when the piston of the steel hammer fell at the moment when we were still engaged in strongly clinging to these pincers. When the piston fell, it made me do several somersaults, and I eventually landed on my wrists.

Q. Do you have any marks today of the injury which you received at that time? Witness, will you stand up and let the members of the Tribunal observe the wrists which you have testified were injured while working at the Krupp Plant?* (Witness complied)

Q. As a result of that injury have you been classified by the French Government or anybody in France as incapacitated in any degree?

A. The French military authorities have classified me 25 percent incapacitated because of these wrist injuries, and an additional 15 percent incapacitated on account of bronchitis I contracted while we had to sleep in the open when our camp was destroyed.

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* The defense affiant Kirmse declared that no such accident was reported to the management. See Lehmann Document 575, Defense Exhibit 2288, reproduced below in section VIII G 3.

Q. To your knowledge is it a common practice in France today to classify a person as incapacitated at least to that extent?

A. No, it is very difficult to get classified as incapacitated in France today.

Q. What is the reason it is so difficult to be so classified?

A. It is very difficult because there are so many applications, and some of them are not at all serious, and it was very hard for me. It took me 18 months to get that classification because I had to go through channels.

* * * * * * *

Q. Now, Witness, you have testified concerning various camps at which you lived and also testified concerning a large number of French prisoners of war also living at these same camps. Do you know where and on what work other prisoners of war at these camps worked?

A. We all worked in the Krupp factories, but we were split up according to the individual details and the individual plants of the Krupp factory. Some of my comrades worked on armored plates, others worked generally on tank parts, then there were those who polished and rounded up the gun barrels we produced, and others who were assigned to the perforating detachments, those who perforated these gun barrels.

Q. How do you know—

PRESIDING JUDGE ANDERSON: If you will pardon an interruption. That was rather a broad question you asked him and a rather broad answer. I should think it would be well to ascertain, speaking of this plant he's been talking about, the one, as I understand it, where he was working?

MR. RAGLAND: That is correct, Your Honor. As I understand—

PRESIDING JUDGE ANDERSON: Of course, this is a very material part of this examination, now, the nature of work that these prisoners of war were doing.

MR. RAGLAND: I intend to explore this matter further, Your Honor.

PRESIDING JUDGE ANDERSON: Very well.

Q. Let me ask you, Witness, first as to the source—or how do you know what the other prisoners worked on and where they worked?

A. They were working in the factories and in the plants and branches surrounding mine, and when we went back to the camp, we would talk to each other. You know that these Krupp factories are split up in various branches, and we would talk to each other and even make little drawings to show what we were doing, and we would do so especially because we found it com-

pletely abnormal that we should be made to do such work in our capacity as prisoners of war.

Q. You stated that some of the prisoners of war worked on armor plate. Can you tell the Tribunal where these prisoners—in what particular plants they worked, and describe a bit more in detail what you mean by work on armor plate?

A. They were cutting these plates. They had big cutting machines, and had to approach the armor plate, cut them, and they also told me that the plates were 1½-2 cm. thick.

Q. This work was done at plants other than the plant in which you worked?

A. Yes, in another plant.

Q. You said that some of the prisoners of war worked on perforated guns, or on that type of work. Can you develop that a bit more?

A. I, of course, haven't seen the work, but from what they told me I gather that it was a drill which went into the gun barrel, slowly ate its way into the gun barrel, and thus perforated it.

* * * * * * *

Q. Could the Krupp officials who came through the plant see what type of work you were doing and did they see the type of work that you and the other prisoners of war were doing?

A. They certainly saw the kind of work we were doing, because we could even hear them sometimes when they were talking with our foreman, and by that time we had acquired some slight knowledge of German and could understand them when they asked, "Do the French prisoners of war work well?"—or something of that kind.

* * * * * * *

Q. Witness, you testified concerning the type of work which you did, the conditions under which you worked, you and other prisoners of war. Did you or any prisoners of war at any time make any protest to anyone?

A. We protested at various times. We protested to this man Behrens who was in charge of our factory. We protested to the foreman at our steam hammers and steam presses. We would protest to the German workers, we would protest to our spokesman at the camp, who handed on the protest to the camp commandant in order to have it handed on to the Stalag to see to it that it was forwarded to the French Red Cross. We didn't cease protesting, but we never got any results.

Q. What were the grounds of your protest?

A. We protested on the strength of the Geneva Convention which prohibits the employment of any prisoner of war in armament factories and in the production of weapons.

Q. Did you say anything about the dangerous character of the work?

A. Our spokesman protested, and in his protest he wrote about the dangerous type of work we were doing, and the fact that it was particularly hard to work at the steam hammer during the night, and that we had to work 27 days in one stretch, and he also referred to the Geneva Convention, which forbids the employment of any and all of the prisoners of war of the signatories in factories producing war materials.

Q. Did any of the Krupp officials make any response to these protests, or what did they say to you when you made a protest?

A. They told us, "You Frenchmen, all you have to do is work, work, work. Don't you start bothering about the conventions, those conventions don't exist. All you have to do is to work."

Q. Did you or any of the other prisoners of war on any occasion refuse to work?

A. There were several instances of refusal to work, because the work was particularly hard, and because of the type of work. At the beginning in such cases, Behrens, who was our factory foreman, would make a report to the camp and at the beginning the sergeant of the camp would then call the prisoner and the prisoner would be sent to the Stalag. In the Stalag, they would be sentenced, and would get their prison term, would serve their prison term at the Stalag, but after that, they would not be sent back to the same camp. They would be sent to another camp and would not come back to the Krupp factory. Now, as the Krupp management saw what happened, that these prisoners refused to work and would as a result not come back to the Krupp factory, they had two cells constructed at the camp itself, and from then on when the workers refused to work, when a prisoner of war refused to work, he would be sent to the Stalag to be sentenced, but once he was sentenced, he would be sent back to the camp and serve his prison term in the cells at the camp, and would be sent back to work at the Krupp factory.

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CROSS-EXAMINATION

DR. WOLF (counsel for the defendant Lehmann): Mr. Witness, how long were you a prisoner of war which you became according to your statement, on 18 June 1940 at Dijon?

WITNESS BUSSON: You mean my whole period as a prisoner of war?

Q. Yes.

A. I was made prisoner on 18 June 1940, and I was liberated by the British on 15 April 1945 in the region of Bergen-Belsen.

Q. According to your statement, then, you were never a civilian worker during the course of the war?

A. No, never.

* * * * * * *

Q. Now I am afraid I have to discuss the technical details of your work in the forging press works. You state that you, as well as the other prisoners of war—as far as I remember, you spoke of 30 Frenchmen and 20 Russians—were employed at a drop hammer and a forging press. Is that correct?

A. What I said was that 50 of us worked at all the steam hammers and steam presses together, not at one.

Q. According to which considerations were these 50 men selected?

A. I don't know how we were selected. I didn't see any special selection. As far as I was concerned I protested against this kind of work because it was not at all in my line. I was not fitted for it. As I told you, I had worked in the newspapers before. I was not at all a forging worker, but they said nothing doing, you are going to work at the steam hammer.

Q. And who told you that?

A. Behrens.

Q. Did you complain about this to your spokesman or your camp leader or your interpreter?

A. We didn't make any individual complaints. We made a collective demand to our spokesman and our spokesman, Mr. Legry, passed it on to the French Red Cross. The complaint was based on the fact that we were doing this kind of work at steam hammers and steam presses, and that we were working in an armament plant.

Q. Now, how did the work take its course? Were the blocks first put on the forge, and cut into half, and then the half after being warmed again was finally forged under the hammer?

PRESIDING JUDGE ANDERSON: Just a moment. The sound track has run out. Can you give that answer after the recess?

WITNESS BUSSON: Yes, Your Honor.

PRESIDING JUDGE ANDERSON: The sound track will have to be renewed so we will rest for 15 minutes.

(A recess was taken)

THE MARSHAL: All persons in the courtroom will please take their seats.

The Tribunal is again in session.

WITNESS BUSSON: The usual procedure was that we would have big steel lumps or cylinders about 5 feet long with a diameter of about 3½ feet. We would bring them into the furnace first, heat them, then get them under the presses with the grain, and under the presses they would be lengthened by about 10 feet, having thus a length of about 15 feet. Then we would cut them and get them back into the furnace with little wagons. After they were in the furnaces and were white hot, we would get them under the steam hammer and work on them.

DR. WOLF: Did I understand you correctly that you said this morning the steam hammer was the No. 42?

A. Yes, that is correct.

Q. You further described that these steel blocks were made into cylinders. Will you please give us once more the exact dimensions of the processed pieces—their length and their diameter?

A. This would be sort of a cylinder in two parts. The smaller part was thicker, that was the base part, about 50 centimeters long. I don't mean two parts separated from each other, but the forged piece would be in two different widths, one about 30 centimeters, that is about 12 inches in diameter, and 50 centimeters long, 20 inches long. The whole barrel was about 4–5 meters, roughly 15 feet. At the other end, the opening was slightly over-elevated. While the opening, the diameter of the end in itself would be about 16 centimeters, that is roughly 6 inches, the over-elevated part would have a diameter of 20 centimeters, or 8 inches.

THE INTERPRETER: With the permission of the Court, can I hand up this chart drawn by the witness, because it makes things clear—

JUDGE WILKINS: To the defense counsel.

DR. WOLF: Witness, were these pieces round throughout, or were some square parts in it?

WITNESS BUSSON: All round.

* * * * * * *

Q. Did your group that worked on the steam hammer No. 42 carry out any other forging work, or only the one you described?

A. Yes, it would happen that we would do other work, would work on other pieces, square pieces or whatever it was. I couldn't describe it in great detail because it was rather seldom that we worked on that kind of stuff. At least three-quarters of our time was devoted to working on gun barrels.

Q. Were not also hollow railroad axles produced at your place of work which look quite similar to the barrels described by you?

A. Yes, this kind of work was done there, too, but that was done at the steam presses, this kind of axle. However, they looked quite different from the gun barrels. They were about 2 meters—6–7 feet—long and they had a diameter of 20–25 centimeters—8–9 inches. This is the form of these pieces. I, myself, didn't work at these presses.

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EXTRACTS FROM THE TESTIMONY OF PROSECUTION WITNESS ERNST WIRTZ[1]

DIRECT EXAMINATION

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MR. MANDELLAUB: When were you appointed as supervisor of foreign workers?

WITNESS WIRTZ: In October or November 1942.

Q. Were you at that time employed at Krawa [Krupp's motor vehicle department]?

A. Yes.

Q. The denazification tribunal of the County District of Kulmbach sentenced you to 8 years of labor camp because of the mistreatment of foreign workers and eastern workers in Essen and Mulhouse and Kulmbach?

A. Yes.[2]

* * * * * * *

Q. Did you beat the eastern workers and prisoners of war because you personally wanted to beat these men, or because you had received instructions to beat them?

A. I was given instructions by the plant manager, Mr. Balz.[3]

Q. You received instructions from Mr. Balz?

A. Yes.

Q. What were the words of Mr. Balz when he asked you to beat the eastern workers and prisoners of war?

A. If the eastern workers and prisoners of war didn't come punctually to work and were idle at noon, Mr. Balz said we should interfere energetically, and that is what I did.

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[1] Complete testimony is recorded in the mimeographed transcript, 18 February 1948, pp. 4307–4347. Further extracts from Wirtz' testimony are reproduced above in section VIII E 2.

[2] Extracts from the verdict of the denazification tribunal (*NIK–12380, Pros. Ex. 1357*) are reproduced immediately below.

[3] Balz was manager of Krupp's motor vehicle department which manufactured, among other things, half-tracks and armored cars. Balz appointed Wirtz as the supervisor of all foreign workers at Krawa in Essen and later in Krupp's plants in Mulhouse and Kulmbach.

Q. When Mr. Balz told you to interfere, did you understand that you had to beat them?

A. Yes.

Q. Did Mr. Balz participate in the physical maltreatment of eastern workers and prisoners of war?

A. I know only one case in Kulmbach where he beat an eastern worker.

Q. The plant manager, Mr. Balz himself, in one case as you said, carried out such an act of maltreatment?

A. Yes.

Q. Was Director Balz the highest technical authority in Krawa?

A. Yes.

Q. In Essen as well?

A. I can't tell you about Essen.

Q. In Mulhouse?

A. In Mulhouse and Kulmbach.

Q. In Mulhouse and Kulmbach?

A. In Essen I think it was Dr. Roth.

Q. Who was Mr. Schoettle?

A. Mr. Schoettle was head of a department.

Q. Head of a department in Krawa?

A. Yes.

Q. Did he also take a part in physical maltreatment of eastern workers and prisoners of war?

A. Yes.

Q. Did you see that yourself?

A. Yes, I saw that several times.

Q. You saw several times that the head of the department Schoettle took part in the physical maltreatment of eastern workers and prisoners of war?

A. Yes, in Essen.

Q. In Essen. Who was Mr. Roemmle?

A. He was also head of a department.

Q. Was Mr. Roemmle a department head of Krawa?

A. Yes.

Q. Did Mr. Roemmle also take part in maltreatment of eastern workers and prisoners of war?

A. Yes.

Q. Did you witness these maltreatments?

A. Yes.

Q. Whom did he maltreat?

A. Eastern workers and Russian prisoners of war.

Q. Eastern workers and Russian prisoners of war?

A. Yes.

Q. Who is Mr. Brauchmann?

A. That is a senior foreman.

Q. Did Mr. Brauchmann take part in ill-treatments?

A. Yes.

Q. Did he also ill-treat eastern workers and prisoners of war?

A. Yes.

Q. And did you see that yourself?

A. Yes.

Q. In Krawa, in Essen were you given instruments for beating eastern workers and prisoners of war by the firm Krupp?

A. Yes, Mr. Balz gave me such instruments.

Q. Did Mr. Balz have to store these instruments?

A. Yes, he took a box of these truncheons and he distributed them.

Q. Were other supervisors also furnished with such instruments?

A. I believe there were only four or five gentlemen.

Q. What was the source of these instruments?

A. I can't tell you that.

Q. Were these instruments withdrawn?

A. Yes, after 2 weeks we had a regulation from the Reich Leadership of the SS, from Himmler, that we were forbidden to beat eastern workers and they were withdrawn.

Q. The withdrawal of the beating instruments was a result of a prohibition of Himmler?

A. Yes.

Q. Did you see this order or regulation yourself?

A. No, I didn't see it myself.

Q. How do you know, then, that this happened on the basis of this order?

A. The camp leader, Schaefer, told us we had to give up these truncheons.

Q. On the basis of this order?

A. Yes.

Q. Was Mr. Schaefer your immediate superior?

A. Yes.

Q. As your immediate superior, he told you that on the strength of a regulation of Himmler no more workers were to be beaten at Krupp's with these instruments?

A. Yes.

Q. Now, after that how were the people beaten?

A. Just with our hands.

Q. Were people also kicked?

A. Yes.

Q. Were people beaten while they were eating?

A. Yes, occasionally they were beaten because they were so obstinate and didn't want to go back to work.

Q. Were these eastern workers and prisoners of war famished?

A. Yes.

Q. Did you also have to maintain discipline among the eastern workers and Russian prisoners of war in the camp?

A. Yes.

Q. There were soldiers who guarded these people inside the camp? They were Krupp employees?

A. Yes.

Q. These prisoners of war were beaten by Krupp employees?

A. Yes.

Q. Did you beat them, yourself?

A. Yes.

Q. Did you know these people were prisoners of war?

A. Yes.

Q. How did you know they were prisoners of war?

A. They had an "S.U." on their backs.

Q. From this sign you saw quite clearly they were Russian prisoners of war?

A. Yes.

Q. Were you told by the plant manager that you should beat German workers?

A. No.

Q. Would you have beaten German workers if such an order had been given?

A. No.

* * * * * * *

CROSS-EXAMINATION

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DR. POHLE (counsel for the defendant von Buelow): Were you sentenced by the denazification tribunal in Kulmbach because of ill-treatment?

WITNESS WIRTZ: Yes.

Q. Apart from you, the men Schoettle, and Roemmle, and Brauchmann have beaten people, is that right?

A. Yes, that is correct and Mr. Huber also.

Q. When you were deputy camp commander did you live in the camp?

A. Do you mind repeating this?

Q. Did you live in the camp?

A. No, in Mulhouse we lived somewhere else outside of the camp.

Q. And in Essen?

A. In Essen I was not deputy camp commander, I only became deputy camp commander in February 1944 in Mulhouse.

Q. You said that you had been selected by Mr. Balz, is that correct?

A. Yes.

Q. Did you have to inform Mr. Balz regarding the nature of your activity?

A. No.

Q. Did Mr. Balz frequently make inquiry regarding the way you conducted your camp?

A. No.

Q. You said you had been requested by the plant administrator to beat these people.

A. Yes.

Q. When was that?

A. In October 1942, October or November.

Q. Who asked you to do that?

A. Mr. Balz, Mr. Schoettle, and Mr. Huber as well.

Q. Just a moment, you mean by referring to Mr. Balz the incident when he told you, stir them up a bit?

A. Yes.

Q. Could you kindly describe this incident in greater detail?

A. In October or November 1942 we were present at food distribution and the eastern workers and prisoners of war didn't return to their work quickly enough.

Q. Just a moment, Witness, where was food distributed?

A. Inside the Krawa.

Q. From when to when was food distributed?

A. From twelve to one.

Q. You said the prisoners of war didn't return quickly enough to work?

A. Yes.

Q. Was that after the end of food distribution?

A. Yes.

Q. What did the prisoners of war do?

A. They loafed around inside the plant enclosure and looked for food such as potatoes, turnips, or for anything they could find inside the plant enclosure, and they pinched bread from some of their comrades.

Q. Do you mean to say that inside this camp enclosure you could find turnips?

A. Yes.

Q. How did they get there?

A. Krawa requested from time to time turnips for food, and

we stored them and we gave them as additional food to prisoners of war and eastern workers.

Q. How long after the food distribution did that take place?

A. An hour and 20 minutes. It happened that for three-quarters of an hour we had to look for prisoners of war.

Q. Did they hide?

A. Yes.

Q. I understand you to say that on this day Mr. Balz saw the prisoners of war weren't working, is that correct?

A. Yes.

Q. What did Mr. Balz do?

A. Mr. Balz said we should stir them up so that they should return to work.

Q. To whom did he say that?

A. To me and to Mr. Stirnberg.

Q. Who was Mr. Stirnberg?

A. That was also a guard of the Krawa plant, and Mr. Schulz as well.

Q. Mr. Schulz. He told you three then?

A. Yes.

Q. What did you do?

A. Then we took our truncheons and beat these people in order that they might return more quickly to work.

Q. Did Mr. Balz say take those truncheons and beat them?

A. Yes, he did.

Q. I thought he said, stir them up.

A. Yes, that is what he said. That meant for us as much as, take your truncheons and beat them.

Q. Was Mr. Balz present during this incident?

A. Yes.

* * * * * * *

Q. Witness, a few more questions. When the leather truncheons were withdrawn, what did Mr. Balz say then?

A. We did not get any directive from Mr. Balz. All these truncheons were destroyed by camp leader Schaefer.

Q. You did not discuss the matter with Mr. Balz?

A. No.

Q. How long did you have those leather truncheons?

A. Two or three weeks.

Q. You said a directive had been issued by Himmler according to which nobody was to be beaten?

A. That is right.

Q. If I understood you correctly, in your direct examination you said that previous to that period another regulation was in existence which permitted the beatings?

A. No, I didn't say that. Mr. Balz told us to beat them, and I don't know of any official regulation to the effect. All I know is that camp leader Schaefer told us we had to surrender those leather truncheons, because according to the regulation of Reich Leader Himmler the beatings were prohibited.

Q. You have already said that. When you talk about this directive by Balz, you meant the instruction "stir them up"?

A. Yes, that is right.

Q. Do you know whether this order by Reich Leader Himmler, which prohibited beatings, applied only to Krupp, or did it apply to the whole German Reich?

A. I think it must have applied to the whole of the German Reich.

DR. POHLE: No further questions.

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PARTIAL TRANSLATION OF DOCUMENT NIK-12380
PROSECUTION EXHIBIT 1357

EXTRACT FROM VERDICT AND OPINION OF KULMBACH DENAZIFICATION BOARD, 30 OCTOBER 1947, SENTENCING ERNST WIRTZ TO A LABOR CAMP FOR EIGHT YEARS FOR ILL-TREATMENT OF FOREIGN CIVILIAN WORKERS AND PRISONERS OF WAR WHILE EMPLOYED BY KRUPP*

The Denazification Board
Kulmbach (Rural District)
File No. A.R. 717/47

Kulmbach, 30 October 1947

In accordance with the law of denazification and demilitarization of 5 March 1946, the Denazification Board Landkreis Kulmbach consisting of:

1. Lauterbach, Hans_____Presiding Member
2. Fischer_____Associate Member
3. Wimmer_____Associate Member

on the basis of the oral proceedings, pronounces the following verdict against Wirtz, Ernst, born on 25 August 1902, miner, Kulmbach, Fischergasse No. 18.

VERDICT

I. The defendant is a main offender according to article 5,

* Extracts from the testimony of Wirtz in the Krupp case are reproduced immediately above and in section VIII E 2.

paragraphs 2 and 8, of the law for liberation from national socialism and militarism of 5 March 1946.

The following expiatory measures are imposed:

1. The defendant is to be sent a labor camp for a period of 8 years.

* * * * * * *

SUBSTANTIATION

* * * * * * *

Since 1943 the defendant had been employed in the camp administration of the labor camps for foreign civilian workers and prisoners of war of the firm of Krupp, Essen, Mulhouse in Alsace, and Kulmbach, and in February 1944 he was entrusted with the supervision of the prisoners as an assistant camp leader.

In the taking of evidence the defendant contested the accusation that he was guilty according to article 5, paragraphs 2, 8, and 9.

Through incontestable sworn statements of the witnesses, it was established and proved, however, that the defendant ill-treated prisoners of war and foreign civilian workers, working in Germany, in the most brutal and inhuman manner.

The interrogated witness Vogelmann testifies on oath that the defendant behaved in a ruthless and brutal manner toward defenseless prisoners of war and foreign workers. For instance, he ruthlessly beat a Russian prisoner of war with a four-edged piece of wood the size of a stake until the prisoner collapsed, covered with blood, and died shortly afterwards from head injuries.

The next witness Kaefer, interrogated under oath, describes an incident in which the defendant also hit a Russian prisoner of war with a wooden board in which there were nails, in such a brutal manner that the prisoner lost consciousness and had to be taken away by first aid personnel. The testimony of the witness Guseinow, a Turkish citizen, who was himself a camp inmate, reveals that the defendant treated him and his co-workers in the most brutal and despicable manner, and hit the camp inmates with a rubber hose. This witness further testifies that the defendant used a water hose in order to wake up the workers and drive them to work. An eastern female worker, who was too unhappy about the death of her child to work, was driven to work by him with blows.

* * * * * * *

The witness Friedrich Rein also confirms that the defendant ruthlessly and violently committed inhuman acts on prisoners of war and foreign civilian workers.

* * * * * * *

The witness Hasenecker also describes the brutality of the defendant toward prisoners of war and foreign civilian workers. He testifies how the defendant used to upset in the most brutal manner the benches on which the prisoners of war and foreign civilian workers rested during their lunch hour, thus hurling them off the benches. Those prisoners of war and foreign civilian workers who slept on the floor he would wake and send to work with ruthless kicks.

* * * * * * *

During the taking of evidence the defendant was unable to clear himself in any way from the charges of inhuman and reprehensible behavior, and the statements of the witnesses for the defense, appointed by the defendant, could in no way soften down the charges concerning his crimes against prisoners of war and foreign civilian workers.

When the facts were incontestably established, defendant's counsel found himself compelled to give up his case. The prosecutor demanded, in view of the result of the evidence, that the defendant be sent to a labor camp for a period of 10 years. After carefully considering and examining the testimonies of the witnesses for the prosecution and for the defense, the denazification board came to the decision that placing the defendant in the group of main offenders seemed justified, since the defendant's behavior toward prisoners of war and foreign civilian workers constituted an offense against international law.

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[Signed] LAUTERBACH
Presiding Member

[Signed] WIMMER
FISCHER
Associate Members

TRANSLATION OF DOCUMENT NIK–7155
PROSECUTION EXHIBIT 1522

AFFIDAVIT OF FRANZ BEDUHN, A KRUPP WORKER, 20 MAY 1947, CONCERNING THE TREATMENT OF RUSSIAN PRISONERS OF WAR IN KRUPP'S BOILER SHOP[1]

I, Franz Beduhn, Essen-West, Breslauerstrasse 23, [crossed out and changed by hand to] Mommsenstr. 31 having been cautioned that I render myself liable to punishment by making a false affidavit, voluntarily and without coercion, depose the following:

1. I have been engaged in the boiler shop of the Krupp Company, with the exception of 2 years, 1931–1932, when I was unemployed, since the year 1927, and still hold this position today.

2. In July of 1942 I observed the following:

Four Russian prisoners had orders from Buschhauer[2] to sweep out the barrel rolling shop. All four prisoners were so much weakened by the poor nourishment that they could not perform any physical work. Buschhauer picked out an especially weak man and ordered him to move, by himself, the heavy iron blocks, which weigh nearly 1000 pounds, so that these places too could be swept. The Russian made every possible effort to carry out the order, but it was impossible for this poor weak man to complete this work, because two strong men were barely able to move these blocks. Buschhauer, who must have seen that he demanded something impossible from the man, fell upon the prisoner and hit him in the face with the fist. The Russian immediately collapsed. However Buschhauer did not leave him alone, but kicked the poor man without mercy. He kicked him in the stomach, in the neck, and in the back. In spite of the noise which is always present in the boiler shop, I heard his moaning and wailing, but even that did not cause the bestial Buschhauer to leave his victim alone; on the contrary, he kicked his victim until I could look on no longer, and threw myself in between. I appealed to his human sympathy, but this monster did not have any. On the contrary, he yelled to me, "You take the side of the Russians and I shall immediately report you." That he really did, and I only owe it to the understanding of the manager, that I was not turned over to the Gestapo.

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[1] Beduhn executed an affidavit dated 4 May 1948 (Lehmann Doc. 140, Def. Ex. 1767) which was introduced by the defense and he appeared as a defense witness. Extract of his affidavit and testimony for the defense are reproduced below in section VIII G 3.

This earlier affidavit (*NIK–7155, Pros. Ex. 1522*) was introduced by the prosecution during its cross-examination of Beduhn.

[2] Buschhauer was a Krupp worker who supervised and checked the work of Russian prisoners of war in the boiler construction department.

3. Regarding the food which the Russians received I can only say that it consisted of a watery soup which contained a few cabbage leaves and a few frozen potatoes. The food already stank in the pails in which it was carried. We workers among ourselves often spoke about it, that it was unworthy of humans to put such filthy food in front of these poor people, of whom one demanded mostly heavy work.

4. The manager, Mr. Theile, also knew of acts of this kind on the part of Buschhauer. In my presence Mr. Theile once forbade Buschhauer to hit the Russians in such manner. But Buschhauer paid no attention to the prohibition, and continued to hit the Russians.

I have carefully read the two pages of this affidavit, have made and initialed the necessary corrections in my own hand, and herewith declare on oath that according to my best knowledge and belief I have stated the truth.

[Signed] FRANZ BEDUHN

Essen, Germany
20 May 1947

3. DEFENSE TESTIMONY AND AFFIDAVITS

EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS GENERAL ADOLF WESTHOFF*

DIRECT EXAMINATION

DR. WOLF (counsel for the defendant Lehmann): Witness, will you please tell the Court your full name?

WITNESS WESTHOFF: My name is Adolf Westhoff.

Q. When were you born?

A. On 21 February 1899 at Rheda, Westphalia.

Q. General, would you give the Court some data about your military career during the last war?

A. During the last war I was battalion commander and then regimental commander on the eastern front. In February 1943 I joined the Armed Forces High Command, namely, for prisoner of war affairs. There I was in charge of the general department for prisoner of war affairs. And then—

Q. May I ask you to slow down a little bit?

A. On the first of April 1944 I became chief of prisoner of war matters in the Armed Forces High Command, and on first October 1944 I became Inspector General of Prisoner of War Affairs where I remained until the end of the war.

* Complete testimony is recorded in mimeographed transcript, 11 May 1948, pp. 7333–7375.

Q. Did the Armed Forces High Command have a special department for prisoners of war?

A. Yes, there was the special agency for prisoner of war affairs. This was the Office of the Chief for Prisoner of War Affairs in the Armed Forces High Command.

* * * * * * *

Q. General, what do you know about the question of employment of prisoners of war in the Germany industry, particularly in the armament industry? I should like you to distinguish between the various nationalities.

A. According to the Geneva Convention, all prisoners of war, except officers and noncommissioned officers, can be put to work. Officers and noncommissioned officers may volunteer for work, and if they do, the detaining power should comply with their request, if possible. However, no compulsion may be used. The employment of prisoners of war in armament manufacture is prohibited according to the Geneva Convention. Actually, prisoners of war were employed in armaments in Germany during the war. To begin with, Russian prisoners of war. This condition existed before 1943 when I joined the Armed Forces High Command Prisoner of War Office—

Q. Pardon the interruption. The agency of the Chief of Prisoner of War Affairs of the Armed Forces High Command existed before you joined this office?

A. Yes.

Q. And who was your predecessor?

A. General von Graevenitz.

Q. Please tell the Court what the situation was concerning Russian prisoners of war when you took over the office.

A. When I joined the OKW in 1943 Russian workers were employed in the armament industry.

Q. Who had ordered this?

A. I inquired as to why these people worked in armament manufacture in violation of the Geneva Convention. I was told by my superior—

Q. Who was that?

A. General Reinecke—no, that was General von Graevenitz, I made a mistake. First of all Russia was not a contracting party to the Geneva Convention. Consequently, it was generally known that German prisoners of war in Russia were used in all sorts of work. The order to employ Russian prisoners of war was given by Hitler himself.

JUDGE DALY, Presiding: Was that a written order?

WITNESS WESTHOFF: I don't remember whether it was a written order.

JUDGE DALY, Presiding: Well, I notice on page 43 of document book 6, Lehmann Document 385[1] in what purports to be a circular, it says, "The Fuehrer has issued instructions that Russian prisoners of war are to be put at the disposal of the German industry in large numbers." And Exhibit 966[2] in the same book there was a written order not to employ prisoners of war for armaments manufacturing and transport. Now I was wondering if that had been amended or changed when the first had been in writing, if the second one wasn't in writing, if there was a second one changing it. Have you any document, Doctor, showing an amendment to that written order?

DR. WOLF: I am afraid I can't tell you at the moment. I don't have document book 6 with me.

JUDGE DALY, Presiding: Well, it will just take a minute. On pages 3 and 4 of document book 6 is Exhibit 966, Document 460, that is an excerpt from the Reich Labor Gazette of 25 July 1940, and that says, "prisoners of war can also be employed in other working projects essential to the war effort. Prisoners of war are only assigned to work on projects which are non-essential to the war effort and of secondary importance." Then it says later on, under, "Basic Conditions. The work to be performed by the prisoners of war must not be connected directly with operations of war. In particular, the employment of prisoners of war for the production and transportation of arms or ammunition is prohibited." Now, is there anything in writing amending that order or directive?

A. The first decree is from 1940, and that is a time when the war with Soviet Russia had not yet begun.

Q. Well, let me ask it this way: Is there any document which is in the form of an order or decree from any part of the German government ordering prisoners of war to work in German industry?

A. Judge Daly, I want to make the following statement: During the time of the so-called Third Reich there was in Germany besides the written law, an unwritten law.

Q. I am not asking you that. I am just simply asking whether there was any order from Hitler or any other person in any governmental position changing the one I just read, and ordering prisoners of war employed in armament industry.

A. I have presented documents about this in which Goering after a discussion announced Hitler's attitude and Hitler's desire.[3]

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[1] The Defense Exhibit 969, is reproduced above in section VIII G 1.

[2] Lehmann Document 460, Defense Exhibit 966, an extract from the Reich Labor Gazette, 25 July 1940, compiling numerous decrees concerning the employment of prisoners of war, is reproduced in part in section VIII G 1, above.

[3] Lehmann Document 515, Defense Exhibit 940, and Lehmann Document 170, Defense Exhibit 939, both of which are reproduced above in section VIII G 1.

It was sufficient if Hitler pronounced his attitude. It was even better than a written law in Germany. I don't know of any written law.

Q. Well, I notice on page 43 of the same document book an instrument that is headed, "Reich Minister for Aviation and Commander in Chief of the Air Force." In the third paragraph it says: "The Fuehrer has issued instructions that Russian prisoners of war are to be put at the disposal of the German industry in large numbers." And that says, "By order—signed—signature illegible." Now what I was getting at was whether or not there is anything in writing amending the order I referred to, which was the one issued in July 1940 which said that prisoners of war were not to be employed in armament industry.

A. I know of no written decree and no written law. The documents I presented showed that only indirectly, but also beyond any doubt.

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PARTIAL TRANSLATION OF LEHMANN DOCUMENT 149 DEFENSE EXHIBIT 1006

EXTRACTS FROM AFFIDAVIT OF HANS JAUCH, FORMERLY COMMANDER OF PRISONER OF WAR CAMP VI–F, 11 MARCH 1948, CONCERNING ASSIGNMENT OF PRISONERS OF WAR TO KRUPP, AND THE MANNER OF DETERMINING THEIR TYPE OF WORK*

I, the undersigned Hans Jauch, manufacturer from Wesel, Lipperheystr. 18, am aware that I render myself liable to prosecution if I make a false statement in lieu of oath. I declare in lieu of oath that my statement is true and was made for use as evidence at the Military Tribunal in the case against Alfried Krupp et al.

In the beginning of June 1942 I became commander of the Stalag VI–F in Bocholt. At this time until the end of November 1942 prisoners of war employed by Krupp, Essen, were also subordinate to the Stalag VI–F.

The prisoners of war were assigned to the firms by the Stalags; demands for prisoners of war were covered in line with labor office instructions according to priority ratings.

* * * * * * *

Naturally there were directives for the employment and treatment of prisoners of war which were based on the Geneva Convention. The executory decrees were issued by the High Com-

* The affiant was not called for cross-examination by the prosecution.

mand of the Armed Forces immediately. Thus, the Stalags were only the organs which had to see to it that these directives were obeyed and not violated.

At Krupp the assignment of workers to jobs was governed by principles of expediency, that is, they were put wherever they were needed. A clear-cut separation of production for war purposes and peace purposes was in a firm like Krupp presumably impossible under the sign of total war. I am of the opinion that if one had wanted to adhere strictly to the letter of the Geneva Convention in this respect the High Command of the Armed Forces probably ought not have assigned any prisoners of war at all to a firm like Krupp and all similar firms.

* * * * * * *

[Signed] HANS JAUCH

EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS JOSEF BORCHMEYER*

DIRECT EXAMINATION

DR. WOLF (counsel for the defendant Lehmann): Witness, please tell the Court your full name.

WITNESS BORCHMEYER: Doctor Josef Borchmeyer.

Q. When were you born?

A. 13 November 1898.

JUDGE DALY: I notice it says, "Dr. Hans Borchmeyer."

WITNESS BORCHMEYER: My name is Josef.

DR. WOLF: I beg your pardon. It is apparently a mistake. What is your position, Witness, and your occupation?

WITNESS BORCHMEYER: I am an attorney and notary public.

Q. How long have you held these jobs?

A. Since 1926.

Q. What military and official capacity did you have during the last World Wars?

A. I was major and office chief of Department III, that is counterintelligence in the Stalag VI–I.

Q. Where was this Stalag?

A. At first in Krefeld-Fichtenhain, and later in Dorsten, and toward the end in Herford.

Q. From what time on was this Stalag responsible for the prisoners of war used at Krupp?

A. I can't give you the exact time, but I remember that it could have been around the beginning of 1943.

* Complete testimony is recorded in the mimeographed transcript, 10 and 11 May 1948, pp. 7221–7247, 7251–7331.

Q. And until that time, what Stalag was responsible for Krupp?

A. Stalag VI–F in Bocholt.

* * * * * * *

Q. Witness, please tell the Court what functions you had in the armed forces prisoner of war camp in Fichtenhain?

A. In my official capacity I was in charge of the supervision and the counterintelligence measures concerning all prisoners of war, first of all in the Stalag in Krefeld and later on in Dorsten; furthermore, all labor detachments of prisoners of war in the Duesseldorf district.

Q. Does Essen belong to this district?

A. Yes, it does.

Q. What nationals were these prisoners of war or groups similar to prisoners of war in your prisoner of war camp?

A. Frenchmen, Belgians, Poles, Yugoslavs, Greeks, and for a time Italian military internees. Toward the very end, Englishmen and Americans—in the last phases starting with the invasion.

Q. You did not mention Soviet Russians. Did you forget them?

A. Yes, I forgot them. We had a lot of Soviet Russian prisoners.

Q. From your activity, do you remember the nationality of the prisoners of war employed by Krupp?

A. Frenchmen, Soviet prisoners of war, and Italian military internees.

Q. Did you frequently inspect plants and labor detachment camps of Krupp in Essen?

A. Yes, frequently.

Q. With which of the Krupp officials did you have any dealings?

A. With the exception of two cases where I dealt with Mr. von Buelow, I dealt exclusively with Dr. Lehmann or the gentlemen of his office.

Q. Do you remember the names of these officials of Dr. Lehmann's office?

A. Yes, there was Trockel. In addition to Dr. Lehmann I mainly dealt with Mr. Trockel.

Q. How about Eickmeier?

A. I know him by sight, but I don't remember whether I negotiated with him personally.

Q. How did you happen to come to Dr. Lehmann? Who gave you his name?

A. There was the following reason for that: First of all only the left bank of the Rhine of the Duesseldorf district belonged under my supervision. In 1943 the right bank of the Rhine was committed to my jurisdiction. I had a discussion with the coun-

terintelligence officer of Stalag VI–F, a certain Captain Maeckel who was my colleague and an acquaintance of mine. During this conference we thoroughly discussed how the relations were with the individual firms under my supervision, and Mr. Maeckel told me at that time that he would suggest that in my dealings with Krupp I should turn to Dr. Lehmann because Dr. Lehmann was a man of especially deep human understanding for the conditions of prisoners of war. He personally, in all the time he dealt with Krupp, had found great understanding with all his desires in regard to accommodations, billets, food, etc. For that reason on one of my first inspection trips in my area of supervision I turned to Dr. Lehmann, and because of the first principal discussion I had with him I reached a very good understanding, and in the 2½ years of my supervision there was always friendliness and cooperation, and I found confirmation of what Captain Maeckel had told me.

Q. You only spoke of Dr. Lehmann so far. Can you tell us very briefly what your basic impression in general was of the treatment of prisoners at Krupp?

A. Under my area of supervision in the fulfillment of our desires with regard to prisoners of war concerning treatment and so forth, we had some difficulties with the large enterprises because the large ones, more so than the small ones, were set up bureaucratically. The fields of jurisdiction were divided. There was an overlapping of authority, and that came about daily; and we had very little of that with Krupp's, and I asked Dr. Lehmann once how he explained this and he told me the reason was that Alfried Krupp von Bohlen had issued instructions to the effect that foreign nationals of the Krupp work should be treated as well as could be done, and that all desires with regard to the installation of the camps, the feeding, and the clothing of these foreign nationals with which the firm was approached should be taken care of as rapidly as possible without letting questions of jurisdiction or authority interfere. For the rest I told you how I in my position only dealt with Dr. Lehmann with the exception of two cases where I dealt with Mr. Buelow or with Mr. Trockel, who also acted in the same spirit as Dr. Lehmann.

Q. Concerning your cooperation with Mr. von Buelow I shall not examine you now. Dr. Pohle will do that after my examination. Now we shall not touch as yet on the field of counterintelligence for the moment. Dr. Borchmeyer, you mentioned difficulties arising in large enterprises as a result of the many authorities and the many offices connected with this whole problem. At Krupp's, was Dr. Lehmann able to remedy all defects

arising there, or did Dr. Lehmann have to consult higher authorities and could only limit his activity to supervise it with these offices, to check up, to remedy any defects?

A. I can confirm that. At the rate, he took over our part of the work, namely, that we had to go to the individual offices concerned. I only dealt with Dr. Lehmann's offices, and I think once with Mr. Kupke. For the rest, Dr. Lehmann took over a large part of our work. We only dealt with him and he informed the appropriate offices, and he had them instructed, or instructed them—I don't remember what the relationship of Lehmann and Krupp was exactly.

Q. Do you remember whether Dr. Lehmann merely submitted your desires to the appropriate offices—let us say that for construction he would go to the technical offices, for camp questions he would go to the housing administration, for food questions he would approach the food department and supreme camp administration, and so forth—was Dr. Lehmann satisfied with your desires or did he also supervise the fulfillment of your desires and if possible exert pressure toward that end?

A. He supervised the fulfillment of these desires. Our requests were always taken care of within the scope of the possible chances.

Q. Then this was a particularly difficult time when you were counterintelligence officer in this armed forces prisoner of war camp, particularly difficult because of the destructive air raids which started on Essen at that time. Were you able to obtain an impression as to whether these air raids and their effects, particularly had a part in the depreciation or in the change of the treatment of prisoners of war at Krupp?

A. We were influenced to a very great extent by the air raids, during the period when I took over this area of supervision. Essen became a target of constant air raids, and the Krupp prisoners of war camps were repeatedly hit in these air raids. We had one camp there that was completely wiped out five or six times and was always rebuilt. All camps which were there had been destroyed at least partially or completely, but not only the camp—but the personal belongings of the prisoners of war were repeatedly destroyed: the parcels which they received from their relatives, the food supplies they had hoarded, the parcels from the International Red Cross, their clothing, their shoes, their blankets —everything was destroyed during these air raids. And for us, and for Krupp, it was extremely difficult, naturally, in view of the tight economic situation to act as speedily as we should to obtain new things for the prisoners of war.

Q. What was your impression of how Krupp tried to cope with these difficulties?

A. I can state here that Krupp did everything in its power to cope with these difficulties, and I feel, if I may say so, that the humaneness, particularly that of Dr. Lehmann, with whom I dealt mainly, manifested itself after these many heavy air raids.

Q. Dr. Borchmeyer, you spoke of one camp which you said was destroyed five times through air raids. What camp were you thinking of?

A. The camp in Noeggerathstrasse, a French prisoner of war camp.

Q. Do you know anything about whether these camps were rebuilt or whether the Frenchmen were taken out of this camp and brought to another one?

A. This camp was rebuilt several times. When, one day, it was again completely wiped off the map—and I think on the day of the air raid or at the latest the day after this air raid—I visited this camp together with Dr. Lehmann who I used to accompany through the camps in cases like this, and on this occasion Dr. Lehmann said he could not take the responsibility for rebuilding the camp which, if you are superstitious, you might say had its fate cut out for itself, that it was destroyed again and again while the adjacent camp was hardly ever hit—he told me he could not take the responsibility for rebuilding this camp in the same place. Another camp was prepared, which I visited at that time, which from the point of view of space and in every other respect was without fault. When I told the prisoners of war that they would be transferred to this new camp the spokesman of the French prisoners of war came to me and requested me—I should even say he entreated me—to leave his fellow prisoners in the camp in the Noeggerathstrasse, although the camp had been completely destroyed. And the unfortunate people lived in the most primitive possible conditions, and his reason was this: Immediately adjacent to the camp there was a railroad shelter with an extremely strong layer of cement on top, and in this railroad underpass which was not open to traffic any more, Krupp had set up a large straw depot, and there the prisoners of war found shelter. The best possible shelter was in this railroad underpass, and they could lie there during the whole night. And that was the reason the spokesman gave me for his fellow prisoners of war wanting to remain at the Noeggerathstrasse camp under those primitive conditions, rather than to move into a new and nicer camp. He told me literally, the "railroad tunnel is our life insurance." I repeated this to Dr. Lehmann, who immediately stated his willingness to let the prisoners of war stay in Noeggerathstrasse, and to rebuild the camp once more, I believe for the sixth time.

Q. Dr. Borchmeyer, do you know that on the day of this heavy air raid, or at the latest the day after that, General von Doehren, who was the competent officer for the Service Command No. VI, visited this camp, and that the French prisoners of war in the same way, namely through their spokesman, expressed their desire to the General to remain there in spite of the primitive conditions prevailing there?

A. Yes, I heard of it at that time.

Q. Do you know that the Frenchmen quite frankly told the general that they would escape if he wouldn't let them stay there?

A. I don't know whether they told that to the general, but if you ask me this question, I can tell you they told me that; not only did they tell me that, but I transferred a number of Frenchmen to another camp. They escaped from this second camp back to the Noeggerath camp.

Q. And is it true that the Frenchmen volunteered to rebuild this camp themselves?

A. That is correct.

Q. Do you know how long it took for them to rebuild the camp after this heavy air raid?

A. A very short time. A few weeks. I can't state the exact time any more.

Q. Was that a small job for conditions at that time? Because of material shortages? Or was it a difficult performance?

A. It was a difficult performance.

* * * * * * *

Q. What do you know about the employment of French prisoners of war, particularly referring to the armament industry?

A. The employment of prisoners of war was prohibited according to the Geneva Convention. In the first period of my work I always insisted that there was a violation of the Geneva Convention where prisoners of war were employed in the armament industry, and I succeeded in having the prisoners of war taken out of the armament industries where they were working.

Q. I beg your pardon, does that refer to Krupp or to other plants?

A. To other plants, at the beginning of my activity from the autumn of 1940.

Q. Thank you.

A. Later on, through the intervention of Ambassador Scapini, an agreement was reached between the German Reich and the Petain government and the agreement permitted the employment of prisoners of war in the armament industry. Since that time,

the Supreme Commander of the Wehrmacht gave his approval to the employment of French prisoners of war in the armament industry. I found prisoners of war in Krupp when I took over my new area of supervision.

Q. Was your information about the employment of French prisoners of war in the armament industry, in particular, about the agreement you mentioned between the French Ambassador Scapini, and Germany, based on official information?

A. That is correct.

Q. What do you know about the employment of Soviet Russian prisoners of war in the German armament industry?

A. When the first large shipments of Soviet prisoners of war arrived in Germany, I had a special order to interrogate Russian prisoners of war concerning the treatment of German prisoners of war in Soviet captivity. I interrogated over one hundred, perhaps even more than two hundred Soviet prisoners of war of the most varied position and situation and each one of them, without a single exception, confirmed to me that German prisoners of war in the Soviet Union, from the very beginning, were not only employed in the armament industry, but contrary to all provisions of international law, were used in the immediate neighborhood of the front and were even used to carry ammunition to the very front lines, themselves.

* * * * * * *

Q. Dr. Borchmeyer, the question you raised and which we did not want to go into any further, was the only reason for the order of the government for the employment of Russian prisoners of war in the German industry or was there another reason of international law?

A. The reasons of the government are not known to me. Personally, I do know of another reason which I reported at that time to higher channels. It is the following reason: During the war I accompanied various foreign missions. Several times I accompanied the delegates of the International Red Cross in Geneva and also the representative of YMCA. The delegates of the International Red Cross in Geneva told me at that time that the International Red Cross had repeatedly approached the Soviet Union at the request of Germany in order to effect an adjustment of the treatment of German prisoners of war in accordance with international regulations.

The officials of the Geneva Red Cross told me that the Soviet Union simply brushed off any suggestions of that kind for the following reasons: The Soviet Union is not the least bit interested in the Soviet prisoners of war held by the Germans. These

are traitors who had not fought until the last drop of blood. The Soviet prisoners of war in German hands, therefore, did not exist anymore for the Soviet Union. The Soviet Union further told the International Red Cross according to the statement made to me by the delegates—

JUDGE DALY: Excuse me, Witness, but you say the Soviet Union. It is obvious the Soviet Union can't speak. Who do you claim told this Red Cross these things that you say the Soviet Union said?

WITNESS BORCHMEYER: I couldn't tell you. These delegates told me the Soviet Union. Who made the statement to them I don't know—

DR. WOLF: Did you answer the question or do you want to add something?

WITNESS BORCHMEYER: It was lacking a half sentence. The Soviet Union furthermore stated to the International Red Cross that it refused any commission of any organization, including visits of the International Red Cross, in Russian prisoner of war camps. This was told me and I forwarded this information through official channels.

Q. Did you yourself, Witness, as a legal expert and as a responsible officer of a prisoner of war camp have any misgivings after what you had learned concerning the employment of these two groups of Frenchmen and Russians?

A. No.

Q. Please answer my question very briefly concerning the legal situation of the Italian internees?

A. According to my information agreements had been reached between Mussolini and Hitler according to which the military internees could be employed in the armament industry.

Q. What agency in the Wehrmacht dealt with the supervision of matters of this question and which dealt with the question where prisoners of war were to be employed in industry?

A. I suppose the counterintelligence officer in the Armament Office, the so-called AO-Rue.

Q. Counterintelligence officer?

A. Counterintelligence officer in the Armament Ministry.

Q. You repeatedly visited Krupp and frequently talked to prisoners of war?

A. That is right, very often.

Q. Did you at any time hear any complaints from prisoners of war concerning the wrong employment of prisoners of war?

A. I would like you to be more precise in your formulation, you mean generally or for the reason that they were employed in the armament industry at all?

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Q. Did prisoners of war complain to you or the gentlemen accompanying you or subordinates to you that they were working in armament industries at Krupp?

A. Never.

Q. You said never?

A. No.

Q. Were these prisoners of war entitled to complain?

A. According to the Geneva Convention, I don't remember the exact article—30 or 31—prisoners of war were entitled to the right of complaint.

Q. Was this right of complaint only on paper or perhaps they made these complaints in other plants and not in Krupp?

A. The right to complain was not only on paper. It did not exist on paper only and the prisoners of war made extensive use of their rights of complaint. In the Stalag we had one officer, an interpreter, whose only job was to process complaints of that type, but not complaints about the employment in armament industry. We never received any such complaints.

Q. What was the subject of the complaints you received?

A. For example, a noncommissioned officer who according to the Geneva Convention was not required to work was used for work.

Q. Very briefly, only mention the subject of the complaint.

A. After inspecting cases like this the noncommissioned officers were released from work.

Q. Questions of food?

A. Yes, also food.

Q. Mistreatment?

A. That too.

Q. Did complaints of that type, namely, mistreatment ever become known to you with regard to Krupp?

A. The Stalag as far as I remember never received such complaints, however, being under oath I don't mean to say that occasionally in Krupp plants cases of mistreatment would not occur. However, it would be reported by the guard company, it would be taken care of by the factory concerned. To my knowledge the Stalag did not receive complaints of mistreatment at Krupp.

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Q. Dr. Borchmeyer, what do you know about the physical condition of Soviet Russian prisoners of war from the large collective camp in Senne?

A. The physical condition, particularly during the first period, was pitiful.

Q. Was the Senne camp the large collective camp from which the prisoners of war for the Rhine-Westphalia industrial area were allocated?

A. Yes, that's right.

Q. Did you see these undernourished Russian prisoners of war from the Senne camp at Krupp's?

A. Yes.

Q. Are you quite sure that the undernourished prisoners of war whom you saw were those who had just come from the Senne camp?

A. I am sure.

Q. Were you able to check up later on the physical condition of these prisoners of war as far as you were able to do that as a non-medical man?

A. Yes, very frequently I accompanied the leading camp physician, Dr. Rohlfs, on inspection tours of the prisoner of war camps, and the Russian camps at Krupp's. I was personally able to check up on the physical condition of the Russian prisoners of war. In the presence of Dr. Rohlfs I talked to the Russian and Polish physicians who took care of the prisoners. I further talked with the Russian medical men who made an exact weight check in the camps. Every loss of weight of Russian prisoners of war had to be reported to the camp physician of the prisoner of war camp by the labor detachments, and the Russian prisoners of war who were in this pitiful condition were on orders of the physician, "pampered", as we called it. The German equivalent of this word "pampered" is a word which means a very careful feeding of infants. However, it became our official terminology at that time, because the condition of the Russians made them like infants and they had to be treated very carefully with regard to food, in order to bring them up to strength.

Q. Witness, was this a special case at Krupp's, or were you able to make this same observation in other plants?

A. Unfortunately, yes.

Q. Did the other plants do anything to pamper the Russian prisoners of war?

A. Yes.

Q. Was it the same everywhere, or was it your impression that Krupp did particularly much?

A. Krupp did a little more than others because—and I think it was Dr. Lehmann, someone, I think Dr. Lehmann, applied to the Wehrmacht High Command in order to get additional food, so that they could pamper the Russians. A report was made about the pitiful condition of the Russian prisoners of war by Krupp to the Wehrmacht High Command. At my personal sug-

gestion, the report was very strongly worded, in order to get some results, and the result was that Krupp, at the request of the Wehrmacht High Command, received additional food for Soviet prisoners of war.

* * * * * * *

Q. In your opinion, was Krupp at fault in the condition of the prisoners of war, or what are the reasons for that?

A. The reason was that the prisoners of war had arrived in such a pitiful condition of ill health from the Senne camp. Krupp was neither at fault because of inadequate feeding nor for any other reason. On the contrary, Krupp did everything they could possibly do in order to improve the poor physical condition of the Russian prisoners of war.

Q. Do you know whether they succeeded at least in part?

A. Yes, they had considerable success.

JUDGE ANDERSON: Dr. Wolf, may I interrupt to inquire or have the witness explain what he means by the Senne camp? He refers to prisoners of war having arrived from the Senne camp.

DR. WOLF: Witness, will you explain to the court what the Senne camp was and what was its character?

WITNESS BORCHMEYER: The Senne camp was a large reception camp for Soviet Russian prisoners of war arriving from front lines. It was the first large German camp in which these large numbers of prisoners of war were received. From the Senne camp they were disposed of via transfer to individual prisoner of war camps in the Sixth Service Command, and from these Stalags were assigned to individual labor detachments. Large shipments, as for instance for Krupp, were collected in the Senne camp itself and went directly from the Senne camp without going through the Stalag, to the factory where they were to be employed.

JUDGE ANDERSON: Now, just one more question. By whom was the Senne camp operated?

DR. WOLF: Witness, who operated, and who was in charge of Senne camp?

WITNESS BORCHMEYER: The Wehrmacht.

Q. Where was it located?

A. The camp is near Paderborn. Today it is a British internment camp.

Q. A former German troop training ground?

A. Yes.

Q. Was it a hut camp?

A. Partly there were barracks and partly there were huts.

Q. Who made this allocation to the firms? Did the firm have any influence on that, or who did it?

A. No, it happened in agreement with the regional labor office, through the prisoner of war department of the service command, and later on, the commander of prisoners of war.

Q. Please explain exactly which agencies were involved?

A. The regional labor office, together with the commander of prisoners of war.

Q. Not the private industrialist?

A. No, he had nothing to do with it.

JUDGE ANDERSON: Now I want to further interrupt to clarify one thing. Mr. Witness, do I understand you to say that the Wehrmacht sent these Russian prisoners of war out of the physical condition which you just described, to work in these industrial plants?

WITNESS BORCHMEYER: Yes, that happened, unfortunately.

Q. Did the Wehrmacht conduct any physical examination of the prisoners to determine whether or not they were fit, physically, to do the work expected of them at Krupp's?

A. What the physical examination and care in the Senne camp was I do not know because I didn't work in the Senne camp. All I can say is that they were examined medically after they arrived at the Stalag, at the prisoner of war camps, or in the factories which belonged to my area of supervision.

Q. Now, you say they were examined at the factories?

A. Yes.

Q. Well, if the Wehrmacht sent out these prisoners of war in the condition which you have described here with the expectation that they were to do work in these industrial plants, that attitude is not consistent with the solicitude which I understood you to say that the Wehrmacht entertained toward the observance of the rights of prisoners of war, is it?

A. I only said, and I can only say what happened in my special area of supervision. For that I can say that prisoners of war were treated in every respect on the basis of law, justice, and humanity.

Q. Do I understand that in your opinion, the allocation of workers in the condition which you have described here to work in industrial plants was treatment in accordance with the law?

A. Prisoners of war in my area of supervision were not employed in this condition. According to the findings of the physical examination, they were put on the sick list and those permanently ill were sent to prisoner of war hospitals, and the rest were pampered, as I told you—pampered until they were ready to work. Very often it was a long process.

Q. Now, then, was it expected by the Wehrmacht that these undernourished prisoners of war would be gotten in condition by the industrialists before they were put to work?

A. Yes.

Q. All right, thank you, Doctor.

JUDGE DALY, Presiding: Before you proceed, Doctor, I would like to ask the witness this question. We have had in evidence documents to the effect that Russian prisoners of war were not to be pampered. Did you know about such directives or orders?

WITNESS BORCHMEYER: No.

Q. You never heard of that?

A. On the contrary, we had orders in which it was said literally that the Russian prisoners of war should be pampered and treated "like a raw egg." That is what it said, literally.

Q. You had no fear of reprisals from any authority in Germany if you treated Russian prisoners of war in a way which you describe as pampering them, is that right?

A. If you ask me personally, I had no fear of any party agency or German authority, but I acted in my military capacity in such a manner as my conscience dictated to me.

Q. That's all.

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DR. WOLF: Please tell me whether the method you describe was the general method of the Wehrmacht?

WITNESS BORCHMEYER: No, the condition of the prisoners of war was explained by the long shipment, the long way they traveled. During that time they probably didn't get enough food. In the beginning, conditions in the Senne camp were not what they were later. Being under oath, I cannot keep silent about it: once when I was in the Senne camp, it was rather at the beginning, and it was the only time I was there, I was highly indignant about conditions there. I could not understand it at that time, but if I may say so, later on when I, myself, became a prisoner of war and saw how difficult it is, when hundreds of thousands of prisoners of war are captured, to get order and safety in this whole business, I became convinced that such abuses existed not only in the German Wehrmacht, because the feeding, the accommodations, and so forth, which I experienced myself as a prisoner of war were considerably poorer than those in the Senne camp.

JUDGE WILKINS: You don't want to infer, do you, that the treatment you received was the same that these Russian prisoners of war received?

WITNESS BORCHMEYER: I don't want what I said to be construed as criticism. It is only to illustrate the difficulties under

which one labors when unexpectedly hundreds of thousands of prisoners of war all at once have to be accommodated, fed, clothed, and housed. I wish neither to blame any Allied nation for these conditions nor do I want to criticize the German Wehrmacht because there were such deplorable conditions in the Senne camp.

Q. I want to ask you this one question. You are a lawyer and I assume you have read the judgment rendered by the International Military Tribunal, have you not?

A. Yes.

Q. Then you are fully aware that this program with reference to the treatment of Russian prisoners of war was planned even before the invasion of Russia, aren't you, a deliberately planned policy regarding the treatment of Russian prisoners of war? Is there any doubt in your mind about that?

A. I read it in the judgment. I didn't know it before that.

Q. It is confirmed by documents signed by Keitel and others. It is set forth in the International Military Tribunal judgment, isn't it?

A. Yes, I read that. Unfortunately, that was the case.

Q. Is there any doubt in your mind about the policy that was definitely planned before the invasion of Russia regarding these Russian prisoners of war both on the part of the army and the Gestapo? In other words, isn't it confirmed by letters and directives by Germans themselves high in political and army life?

A. In my opinion these could only have been individuals. If I am asked whether the German Wehrmacht planned that, I must reject that.

Q. What position did General Keitel take?

A. That Field Marshal General Keitel issued such orders, I have read, but General Keitel wasn't the German Wehrmacht. I was a member of the German armed forces and I never had such ideas and it would not be in keeping with my whole ideas. If I may mention this I wrote a very thick volume during the war about it, the complaint, treatment and care, and supervision of the prisoners of war. In this book I stated my opinion and the principles for the treatment of prisoners of war and this guidance for treatment is based on the principle of justice and humanity. I wrote that book as a guidance for all Wehrmacht members who did not issue orders from the green table for the treatment of prisoners of war but who had to deal with prisoner of war questions in the field.

Q. I think you have sufficiently answered my question, and I want to be brief, and I apologize, Dr. Wolf, for taking this time,

but in view of the fact that it seemed to me there was an inference that your treatment by either the Americans or the British or in whose ever hands you were, was similar to that of the Russian prisoners of war, I want to refresh your memory and, after all, this was some time ago that it happened and it is easy to forget as time goes on, but I wanted to refresh your memory particularly regarding the policy planned deliberately in advance toward the treatment of Russian prisoners of war. I shall not take the time to read all of the excerpt of this International Military Tribunal judgment because in the judgment, as you know and you have read it, there are set forth documents issued by various German officials, so it isn't merely the International Military Tribunal speaking from the evidence alone that was presented and I shall only read this one part to you to refresh your memory on it: *

> "On 8 September 1941 regulations for the treatment of Soviet prisoners of war in all prisoner of war camps were issued signed by General Reinecke, the head of the prisoner of war department of the High Command. These orders stated 'the Bolshevist soldier has, therefore, lost all claim to treatment as an honorable opponent in accordance with the Geneva Convention. *** The order for ruthless and energetic action must be given at the slightest indication of insubordination especially in the case of Bolshevist fanatics. Insubordination, active or passive resistance must be broken immediately by force of arms, bayonets, butts, and fire-arms. Anyone carrying out the order who does not use his weapons or does so with insufficient energy is punishable. Prisoners of war attempting to escape are to be fired on without previous challenge. No warning shot must be fired. *** The use of arms against prisoners of war is as a rule legal.' "

Of course I could go on and tell the orders issued by the Gestapo about the killing of various types of prisoners of war. You don't want to infer that the situation under which you were a captive is the same as those of the Russian prisoners of war under policies laid down long in advance of it—that is all I wanted to ask you, Doctor.

DR. WOLF: Since Judge Wilkins raised this question and quoted from the IMT judgment, I shall continue on this question. Dr. Borchmeyer, you heard the quotation which states an order by State agency "that therefore the Bolshevist soldier has lost all claim to be treated according to international law." Do you know what incident that relates to?

WITNESS BORCHMEYER: To my knowledge this refers to the

* Trial of the Major War Criminals, *op. cit. supra*, vol. I, p. 229.

experiences of the bestialities committed by the Red Army toward German soldiers and, incidentally, the order just quoted, which is not unknown to me, was shortly afterward revoked by another decree of quite the contrary content.

Q. Then, is it correct that the phrase quoted by Judge Wilkins is the second part of this decree and that this decree was a momentary reaction to the experience of German troops in the very hard Eastern Campaign which later and very soon thereafter was completely changed?

A. Yes.

Q. Witness, did you at any time either prior, during, or after the war ever hear of any Allied plan for the poor treatment of German prisoners of war?

A. No.

Q. Yet in spite of this you found the conditions you described in Allied camps?

A. That is right.

Q. Another question. Based on your numerous inspection trips at Krupp or in other industrial enterprises of the Rhine-Westphalia area or from conference with officials of Krupp or in all of your examinations and interrogations of prisoners of war, did you ever have the slightest reason to assume that German industry and Krupp in particular would fall in line with this temporary plan of extermination of official agencies?

A. No.

Q. Did you ever get the slightest indication to this effect?

A. No, never.

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TRANSLATION OF LEHMANN DOCUMENT 575
DEFENSE EXHIBIT 2288

AFFIDAVIT OF HERMANN KIRMSE, KRUPP SUPERVISOR, 21 APRIL 1948, CONCERNING THE EMPLOYMENT OF PRISONERS OF WAR*

I, Hermann Kirmse, born on 21 May 1903 at Dillingen (Saar), residing in Essen-Bredeney, 250 Alfredstr., after having been cautioned that by making a false affidavit I rendered myself liable to punishment hereby declare that my statement is true and was made in order to be submitted as evidence to the Military Tribunal III A, Case 10, in the Palace of Justice, Germany.

I was manager of the forge pressing plant of the Cast Steel

* Extracts from the testimony of Kirmse concerning this and the following affidavit are reproduced below in this section.

Works in Essen from 1 January 1942 until 1 January 1943. During the period from 1941 until 1944 approximately 60 percent of the output of the forge pressing plant as rough forgings for peaceful production, for instance, semifinished products, bar steel, forgings for electric machine construction, turbine construction, dredges, rotors, for the chemical industry and apparatus construction and 40 percent were forgings for war materials, as for instance, gun parts, armor parts, heavy shells, etc. It was not always possible to recognize the final form and design of a work piece from the forgings. Only the head blacksmith was more or less able to find out from the drawings, according to which he was working, the type and nature of the piece concerned. In addition the forgings for war materials were marked with camouflaged serial numbers for reasons of secrecy with the result that even the head blacksmith was not always able to tell whether the forgings in questions were subsequently intended for peace or war production. When the forgings, especially forgings for gun barrels, once had left the pressing plant, they never again were brought back to this plant as all subsequent processing took place in other shops.

Since the end of 1941 there were approximately 30 French PW's and later also about 15 Russian PW's employed in the forge pressing plant in a total staff of about 1,000 men. These PW's were only put to work on common labor, for instance, moving and clean-up work and as handymen.

Mostly rough hammering was carried out in the hammer forge No. 42, that is, the castings were hammered out to certain rectangular or circular blooms which differed in measure according to the intended use and thereupon were forged to other aggregates.

Steel does not chip when hammered out, and as is generally known only the scales which cling to the surface of the forgings fall off during this process.

Among the French PW's employed as handymen at the hot pressing plant east was a Frenchman called Busson who, according to our records, had worked in the forge pressing mill only until June 1944. He did not report his accident on the hammer forge No. 42 to the management, neither did he request the services of a member of the medical personnel available at the plant. The records on accidents, still complete, do not show such an accident, although the slightest accidents, if reported to the management, were entered on the records.

Work in the forge pressing plant was carried on in three shifts. Every third Sunday was a holiday for the German workers. An exception was made in the case of the French PW's; they were only infrequently asked to work on Sundays, as they liked to use

this day for washing and mending their clothing. Due consideration was given to this wish of the French PW's. If in spite of this they worked on Sundays they were paid the usual special allowances for holiday work.

The PW's were paid according to the directives of the Wehrmacht. From a still existing statement of the wages account of 1944 it may be seen that the French PW's who worked as roustabouts in the forge pressing plant had an average wage of RM 1.16.

The PW's were treated the same as the other workers in case of air raid alarms and attacks from the air. Krupp had its own alarm system. When the works sounded the alarm, the PW's were sent to the air raid shelters the same as the other workers. There wasn't a single casualty among the PW's during the war in the forge pressing plant from air raids. However, several German workers lost their lives in air raids.

[Signed] HERMANN KIRMSE

PARTIAL TRANSLATION OF LEHMANN DOCUMENT 43 DEFENSE EXHIBIT 1846

EXTRACTS FROM THE AFFIDAVIT OF HERMANN KIRMSE, KRUPP SUPERVISOR, 11 MARCH 1947, CONCERNING THE TREATMENT OF PRISONERS OF WAR

I declare on oath that the statements made below for use by the Court and by official agencies are correct.

My name is Hermann Kirmse, born 21 May 1903, in Dillingen/Saar, residing at No. 250, Alfredstrasse, Essen.

I have been in the employment of the firm of Krupp since 1928. At the beginning of the war until 1942, inclusively, I held the position of a works manager in the forging and pressing plant. As of 2 January 1943 until the time of the collapse, I was a group chief and had the forging and pressing plant and the annealing plants under my orders. Today, I am the manager of all the forging and pressing plants and the annealing plants.

* * * * * * *

The foreigners worked together with the German crew, during all the months in which I had direct insight into conditions, without friction and in a cordial manner. The foreigners were willing workers, and they were willing to be taught and to follow directions. The plant management was satisfied with their work in every way. Being a man with many years of plant experience

it was clear to me that this good result was possible only through conditions which preserved their happiness at their work. It was, therefore, a natural duty for me, my assistants, supervisors, and foremen, to strive to attain peaceful working conditions at all costs. The views held by us were also shared in every respect by the management of the firm, and by the counterintelligence agent, as was expressed in numerous circular letters on the subject of the treatment of foreigners. While I no longer remember the individual particulars of them, I know definitely that they included the prohibition of all physical violence and humiliating treatment of any kind. I remember one case which indicates that the natural rights of foreigners were respected without reservation. In the forging and pressing plant a French prisoner of war* got into a dispute with a German laborer. It was shortly after the occupation of southern France by German troops when we were inclined to recognize evidence of a certain spirit of recalcitrance among the French prisoners of war. In the course of the dispute the German—according to what I heard—came very close to being thrown into the furnace by his opponent. Presumably he was spared this, thanks to the intervention of several comrades who gave the Frenchman a thorough beating. After the dispute had thus been settled the Frenchman continued work until it was time to quit.

On the following day, however, the French camp physician certified him sick for some time. The plant reported the incident immediately to the competent Stalag which instituted an investigation, the result being that the German participants had acted in self-defense. The Frenchman, in turn, appealed to the Red Cross and as a result there was an investigation through some agency about which I no longer remember particulars. Anyhow, in the course of developments the German participants again were thoroughly interrogated. I cannot say anything about the outcome of the case.

I saw to it, that my plant leaders—just as I had done in the past as a plant leader—made a regular check on the food dispensed to foreign laborers. In cases of complaints they had to get in touch at once with the competent authorities of the camp administration. My plant leaders also pressed their demands and succeeded in having numerous foreign laborers classified as performing heavy and very heavy types of work, and having the corresponding extra food supplied to them. It is my conviction that, as long as I was a group chief, the management of the works

* Henri Busson, who testified as a prosecution witness. Extracts from Busson's testimony are reproduced above in section VIII G 2.

under my authority accorded the same care to foreigners as I had done.

Essen, 11 March 1947

[Signed] HERMANN KIRMSE

EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS HERMANN KIRMSE BEFORE COMMISSION II*

CROSS-EXAMINATION

* * * * * * *

MR. RAGLAND: When you referred to the Schmiede-Presswerk [forge pressing plant] what do you mean by that term?

WITNESS KIRMSE: Schmiede-Presswerk is one of the plants of the Krupp enterprises in which usually forging presses are put up and perform their work there.

Q. Is that one plant or a number of plants?

A. The Schmiede-Presswerk No. 52 had three departments. Schmiede-Presswerk West, East, and North, respectively.

Q. Now were each of these departments in a separate building or were they in one building?

A. No, every department of this plant also had a special building.

* * * * * * *

Q. How many prisoners of war were in this department?

A. I would estimate about 45.

Q. What were the nationalities of those prisoners of war?

A. There were French and Russian prisoners of war.

Q. Did you have approximately a similar number of workers, foreigners and PW's in the other departments of the press works?

A. No. The Forge and Press West had no Russian and French prisoners of war, and Department North, I don't remember exactly, but I don't think they had any either.

Q. Well, what work—what was the nature of the work done in Department East?

A. Well, there were forges. Any sort of forging was going on there of every kind.

Q. Did the prisoners of war, the French and Russian prisoners of war, engage in this forging work?

A. The French and Russian prisoners of war were in part, and I would estimate half of them employed were forging workers, unskilled labor.

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* Complete testimony is recorded in the mimeographed transcript, 20 May 1948, pp. 8682–8717. In the testimony following, Kirmse is examined concerning statements made in the two affidavits reproduced immediately above.

Q. They were unskilled workers?

A. Yes.

Q. And as unskilled laborers, what did they do—what was the nature of their work?

A. Well, they were just functions carried out by unskilled labor. They were working in transportation of material or they were working on the forges and hammers which might be called auxiliary work for forging. That is to say, they were, for instance, they were press helpers or hammer helpers in this forge.

Q. And they worked together with the skilled workers, is that correct?

A. Yes.

Q. Were the skilled workers German workers or foreign workers?

A. The skilled workers were Germans.

Q. Well, after a period of time, were not a great number of the skilled workers drafted?

A. Yes.

Q. Did you not thereafter use foreign workers and prisoners of war on the forge hammers, and did they not thereafter do the work which had previously been done by the skilled workers?

A. No. The work that was performed by German skilled laborers was the work of the first and second smith, and besides these two jobs there were also unskilled German laborers in these smithy units—forging units, whose number depended entirely on the size or the quantity of the matter to be forged. These units consisted of 4 to 12 men. When there were 4 people working, there was only one skilled laborer with them. If there were more than 4 working together, usually there were two skilled forgers. That would be the first and second smith.

Q. And the prisoners of war worked with the first or the second smith, is that correct?

A. Yes, as helpers.

Q. And the work of a helper required considerable skill itself, did it not?

A. The work was simple.

Q. Well, what did a helper actually do?

A. In order to explain that exactly, I would have to describe the whole procedure of forging. I shall try.

Q. Well, do it as briefly as you can. Please do so.

A. The first smith is in charge of the whole operation and sees to it that the form of the material to be pressed or forged is reached. The piece has to be continuously turned back and forth under this hammer or press. It has to be pushed back and forth, and for this a certain type of turning machinery is used. To this

I would also like to add that the weight of the pieces worked on in the Press Work East was so great that they couldn't be moved by hand. There were cranes to move them. Now, the work of such a helper on a hammer, for instance, consists of, while the forging is going on, to operate the chain of one of these turning apparatuses with a long iron hook. He has to stop this chain so that it does not slide down. It happens in a case of a certain type of iron pieces that the forge helper has to operate levers. These levers are long iron rods which work on chains.

* * * * * * *

Q. As I understand, the castings which were hammered out differed in measurement according to the intended use of the casting; is that correct?

A. Yes.

Q. Now what do you mean by "intended use"? Would that be according to whether it was intended for peace use or for war use? Would that be the one difference?

A. The casting itself—well, there isn't much difference in that. It's only the purpose for which it was used that varied.

Q. But the measurement of the casting would vary in accordance with its intended use, is that correct?

A. Yes, but the castings for war purposes and for peace purposes did not differ among themselves in measurements, in weight.

Q. Who was the person within the plant who assigned a foreign worker or PW to a particular task?

A. That was the job of the foreman—primarily of the head foreman.

Q. Would that head foreman know whether the casting was intended for war purposes or for peace purposes?

A. According to his experience he would recognize it in some cases.

Q. He could not tell in all cases, is that correct?

A. No, not in all cases.

* * * * * * *

Q. Just a few more questions. In your affidavit numbered Lehmann Document 43, Defense Exhibit 1846,* you referred to a French prisoner of war, and you state that on the day following the occurrences which you mentioned, the French camp physician certified the French prisoner of war as sick. What is the name of the French prisoner of war?

A. I didn't get the question. You mean a French camp physician?

* Reproduced in part immediately above.

Q. No. You referred to a French prisoner of war who was certified by the French camp physician as being sick. My question is: What was the name of the French prisoner of war?

A. The name was Busson.

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REDIRECT EXAMINATION

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DR. WOLF (counsel for the defendant Lehman): Did you know the French prisoner of war Busson yourself?

A. No.

Q. Do you recall ever having seen him?

A. No.

Q. Is this the only case which to your recollection took place in the press forge works? That is, the only case of a dispute between Germans and prisoners of war?

A. Yes.

Q. In your affidavit you described the case in such a way that the Frenchman tried to throw a German worker into the oven and that then he was beaten up by other workers.

A. That is the way the case was described to me. That is, there was the danger during the altercation that this would happen.

Q. Do you know the reason for the dispute?

A. No.

Q. You then continue to say that this case was reported by the plant to the Stalag?

A. Yes.

Q. Whom do you mean by "the plant"?

A. Well, I mean the plant office. The plant as such had to make a report on the case and this report was made probably—I don't know exactly—by the official in charge of air raid precautions.

Q. To what office did such a report have to be made?

A. In this case to the Stalag or the camp where the Frenchmen were housed and to Mr. von Buelow.

Q. Is it correct that in investigating and pursuing such cases the army was competent?

A. If we had any complaints we also turned to the camp.

Q. You said that after the incident the matter was straightened out for the time being and the Frenchman continued to work?

A. On that day, yes.

Q. But on the next day he was entered in the sick book?

A. Well, he didn't appear for work any more.

Q. And you say, that after you yourself heard about it the report to the Stalag had already been made?

A. I assume so because the Stalag was already there.

Q. Were you still plant leader at that time or were you already group leader?

A. I was group leader.

Q. Did you have anything to do with these matters at all? Did any report have to be made to you?

A. Yes, I think that I should have heard about that.

Q. Was this report to you in the form of an official report or did you just hear about it accidentally?

A. No, I think one could say that this was an official report during conferences about all questions which arose.

* * * * * * *

RECROSS-EXAMINATION

MR. RAGLAND: I have just one or two questions. Witness, who were the Germans who beat up the French prisoner of war after the fight between the Frenchmen and the German workers?

WITNESS KIRMSE: I don't remember the names.

Q. What position in the plant did they occupy?

A. They were just workers.

Q. Did these workers not also act as members of the plant police?

A. No, these workers were members of the so-called plant guard.

Q. The workers were members of the plant guard?

A. Yes, the so-called plant guard. I assume that this concept is known.

Q. I am not quite sure that I know fully the concept of a plant guard? Will you explain it a bit for me?

A. This was an organization which was founded by Mr. von Buelow. The purpose was that in case of revolts of the foreigners in the plant, measures might be taken to put down these revolts.

Q. Did these plant guards carry clubs with them?

A. They didn't carry any arms. They didn't carry them with them. They were locked up.

Q. Well, did they beat up the French prisoner of war with any instrument, or just what was the nature of the beating which was received by the French prisoner of war?

A. The beating was done with leather rods which were available to the police.

Q. Do you know who made these leather instruments available to the police? Were they supplied to the police by the Krupp firm?

A. Yes.

* * * * * * *

903432—51——83

PARTIAL TRANSLATION OF LEHMANN DOCUMENT 40
DEFENSE EXHIBIT 1767

EXTRACTS FROM THE JOINT AFFIDAVIT OF FOUR KRUPP WORKERS, 4 MAY 1946, CONCERNING THE TREATMENT OF RUSSIAN PRISONERS OF WAR

The undersigned persons, Artur Meyer, lathe-hand in the boiler construction workshop of the Fried. Krupp Locomotive Works in Essen; Martin Marhoefer, turret lathe-hand in the same plant; Franz Beduhn[1], cutter in the same plant; and Hermann Lux, plant foreman[2], submit the following statement:

We have been informed about the testimony given by Heinrich Buschhauer on 5 October 1945 which was taken into the records as Document D–305[3].

As to this testimony we make the following statement:

The testimony is incorrect with regard to decisive points. First, it is not true that Buschhauer was in charge of 2,000 men. It was Buschhauer's task in the boiler construction workshop to escort a squad of about 52 Russian prisoners of war—that was the number of prisoners working in the boiler construction workshop in the beginning, later on the number was twice as high that is altogether 104 men—from the boiler construction workshop to the locomotive works and back. This was a distance of about 100 meters. The prisoners of war coming from the Hafenstrasse or Raumerstrasse camps were delivered in the locomotive works and from there distributed to the individual plants of the locomotive construction. Buschhauer himself only had to supervise 6 men who were put to work as a clearing squad. In addition to that it was his task to watch and check the Russian prisoners of war in the boiler construction workshop as a whole. Furthermore, up till May 1942, he had to issue the meals to the prisoners of war. Buschhauer repeatedly became conspicuous through his abuses on the Russians. He took advantage of every opportunity to abuse and annoy the people. We consider him an outspoken sadist. Apart from that, he is an outspoken liar according to the general opinion of the employees. In the plant he was known only under the nickname "Big Time Swindler." Just a man like Buschhauer has not the slightest reason to accuse others of abuses which he himself carried out. Above all it is absolutely incor-

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[1] Beduhn appeared as a defense witness and extract from his testimony are reproduced immediately following this affidavit.

[2] Lux also appeared as a defense witness. His testimony is not reproduced herein. It is recorded in the mimeographed transcript, pp. 10181–10185; 10262–10279.

[3] Nazi Conspiracy and Aggression, United States Government Printing Office, Washington, 1946, vol. VII, p. 13.

rect if Buschhauer in his testimony attempts to incriminate the work shop leader Theile. Mr. Theile, on the contrary, having been repeatedly informed of such excesses committed by Buschhauer, has always insisted that the latter refrain from such abuses, and has seriously warned him by pointing out that it was his duty to treat the prisoners like human beings. We can confirm that everything that could be done in order to assist the Russians in their work and make life easier for them was done in our plant and especially by Mr. Theile. This applied to the treatment of the people as well as their supply with clothes, shoes, and the additional supplies like cigarettes etc. The first shipment of Russians undoubtedly consisted of undernourished people in extremely poor physical condition. The nourishment given them was not sufficient all the more if they were to perform heavy labor. It was no other than Mr. Theile who, motivated by this fact, repeatedly called on the proper authorities in order to obtain better food for the people.

* * * * * * *

I, Marhoefer, can recall a case where two Russians did not get any food during the issue of the meal. These Russians subsequently went to see Buschhauer to obtain from him a certificate stating that they had not received any food, in order to obtain that food later on in the camp. Buschhauer silenced these people with beatings. Thereupon they came to me with their complaints because I am in command of the Russian language and was later assigned as an interpreter. I then went to see Mr. Horst who was Mr. Theile's assistant. The latter immediately ordered that the Russians be given the certificate. Aside from that he called in Buschhauer, warning him most sharply not to beat these people.

We furthermore state the following: Even the workers themselves repudiated Buschhauer's conduct. Among them was an SA man by the name of Rudi Gross who occasionally witnessed abuses of Russians committed by Buschhauer.

* * * * * * *

The following is to be said in regard to the meals given to the Russian prisoners of war and foreign civilian workers. In the beginning, at the end of 1941 and beginning of 1942, the food was repeatedly very bad. It was not carefully prepared, the vegetables had not been chopped and had not been sufficiently cleaned in some cases. There were also cases in which the food had to be returned as inedible. Mr. Theile in such cases has always lodged a complaint and urged that the meals were to be prepared more carefully and in a more hygienic way. Then it actually improved later on. In some cases, of course, there was still reason for complaints later on. In each case, however, a

complaint was lodged. It is not true that the meals issued in the plant had a bad odor. If Buschhauer makes a statement to this effect, he could have only referred to vegetables like turnips, cabbage, sauerkraut, etc., which sometimes have a strong odor.

* * * * * * *

I, Beduhn, can of course remember the case where a Russian was taken into the bathroom by Buschhauer and Rogge. I do not know who had beaten him there, but I know that the man came out covered with welts. Following this incident, Buschhauer, having been warned several times previously, was removed from the plant.

At the request of the American and British occupation authorities, we, Meyer, Beduhn, and Lux have submitted in October 1945 together with this statement individual statements of the same contents which we have made under oath before a British court.

We herewith declare on oath that the actual statements of facts made in the foregoing declaration for use before the Court are correct.

Essen, 4 May 1946

[Signed] ARTUR MEYER
FRANZ BEDUHN
MARTIN MARHOEFER
HERMANN LUX

EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS FRANZ BEDUHN BEFORE COMMISSION II[1]

DIRECT EXAMINATION

DR. HAACK (associate counsel for the defendant Lehmann): Please tell the Court your full name.

WITNESS BEDUHN: Franz Beduhn.

Q. When were you born?

A. 5 September 1906.

Q. Witness, I shall now show you an affidavit which you executed for the defense. It is contained in Lehmann document book 14. It bears Lehmann document number 40. This document has already been accepted by the Tribunal, by the Main Court, as Exhibit 1767.[2] It is an affidavit which the witness made together with several others.

COMMISSIONER FRIED: When?

[1] Complete testimony is recorded in the mimeographed transcript, 29 May 1948, pp. 10485–10506.

[2] Reproduced immediately above.

DR. HAACK: On 4 May 1946.

This is your affidavit which you executed, or rather which you signed on 4 May 1946?

WITNESS BEDUHN: Yes.

Q. Do you wish to add anything to this affidavit, or since it was given together with other affiants do you wish to cross out some passages?

A. Yes.

Q. Would you please indicate what you wish to change?

A. The one about the 2,000 Russians.

Q. Concerning the 2,000 Russians then, may I help you after having discussed this with you. As far as I learned from you, on the first page of your affidavit you wish to cross out the sentence "Apart from that he had the task to supervise and check on the Russian prisoners of war in the boiler construction department." Is that right?

A. Yes?

Q. Why do you want to have this sentence crossed out?

A. Because I did not hear who asked him to do this.

Q. Who or whether this order was given to him, is that right?

A. Yes.

Q. Then I believe you wish to make another change, if I may help you here. On page 3 of this affidavit, in the last paragraph, it says, "An SA man called Rudi Gross was among them" and so forth. On the next page the passage which you wish to change goes as far as "*** would beat them until they were blue." Is that right?

A. Yes.

Q. These are two sentences. Do you wish to have these two sentences crossed out as well?

A. Yes.

Q. And why do you wish to cross them out?

A. Because I did not hear that this man said that to this gentleman.

Q. Do I understand you correctly, because you know nothing about this incident?

A. Yes, that's right.

Q. Do you wish to make any other changes in this affidavit?

A. No, nothing.

Q. Witness, in which workshop of the Krupp plant did you work?

A. In the boiler construction department.

Q. Was a certain man called Buschhauer employed there as well?

A. Yes.

Q. How long did you yourself work in the boiler construction department?

A. Since 1927.

Q. Until?

A. Until now.

Q. Do you know that Buschhauer was removed from the plant?

A. Yes.

Q. Can you tell us when this happened?

A. I can't tell you the exact date, but it was in 1943.

Q. Do you remember that the boiler construction workshop was still standing when Buschhauer was removed?

A. Yes.

Q. Do you know why Buschhauer was removed?

A. No, I don't know that.

Q. Was it discussed in the plant—

A. Yes.

Q. —why he might have been removed, this German man?

A. Because he lied so much, and because he ill-treated the Russians.

Q. In the workshop in which you worked, did you ever see an overseer for the prisoners of war or foreign workers who might have been an employee of the Krupp firm?

A. No.

Q. In your presence was Buschhauer reprimanded by the plant manager, Theile?

A. Yes.

Q. Was he reprimanded that he was to stop ill-treating foreign workers and prisoners of war?

A. Yes.

Q. Do you remember when this might have been?

A. No, I do not remember that exactly any more, but it was at the beginning of 1942.

Q. How did it happen that Buschhauer was reprimanded by Theile and you happened to be present?

A. Buschhauer arrived with some Russians, I believe there were six of them, and he cleaned something up, there was a water tank, and I was working on my machine, suddenly I heard shouting; I turned around watched this performance. As Buschhauer told one of the men to move away some heavy iron part and clean up under it, it seems this man was unable to do this because he was not strong enough. As a result Buschhauer beat this man in an inhuman manner. I moved over to them and

appealed to him, to his human decency. He told me if I didn't keep quiet he would report me, and he did that. He reported me to the plant manager, Theile. I had to go up to him 10 minutes later, and Theile told me what Mr. Buschhauer told him, and Theile reprimanded Buschhauer severely not to mistreat the Russians to treat them like human beings. That is all I heard.

Q. One final question. What was the relation between the German employees and the foreign workers, including the prisoners of war?

A. In our machine workshop where I worked for many years, the relationship was that of comradeship. Actually it wasn't permitted, such conduct, but we happened to have such people there.

Q. Apart from the incident you just mentioned which concerned Buschhauer, and any other excesses, such as ill-treatment of foreign workers or prisoners of war, did you notice any such occurrences apart from this one incident?

A. No.

DR. HAACK: I have no further questions in direct examination I yield the witness to the prosecutor for cross-examination.

CROSS-EXAMINATION

MR. GOLDENBERG: Mr. Witness, what was your position in the boiler construction shop?

WITNESS BEDUHN: I was a gear cutter.

Q. Was that a very large shop?

A. [No answer.]

COMMISSIONER FRIED: Will you answer the question, Witness?

MR. GOLDENBERG: Was the shop a large one, the shop in which you worked?

WITNESS BEDUHN: Yes, it was large.

Q. Did most of the workers in the shop know of these things which went on in the shop, for example, the one case of mistreatment that you discussed, was that generally known within the rest of the shop?

A. Yes.

Q. If other examples of mistreatment occurred, would you have heard of them even though you didn't see them yourself?

A. Yes, I think so. I heard about it repeatedly.

Q. First, I'd like to show you a copy of an affidavit which you prepared, which I believe describes generally the particular mistreatment that you were just discussing with the defense counsel. Would you look that over please?

COMMISSIONER FRIED: For the record, Counsel, would you say—

MR. GOLDENBERG: I will in a moment.

Did you sign that affidavit?

WITNESS BEDUHN. Yes.

Q. Is that affidavit correct?

A. Yes.

Q. I would like to have this document introduced in evidence as an exhibit for the prosecution, to have an exhibit number assigned to it by the Secretary General, to be identified until such time as NIK–7155, Prosecution Exhibit 1522, an affidavit by this witness signed on 20 May 1947, in Essen.*

Does this affidavit cover the same transaction you were discussing with defense counsel, in paragraph 2?

A. [No answer.]

Q. Mr. Witness, is that the same transaction you were discussing with defense counsel, the same instance of mistreatment?

A. Yes.

* * * * * * *

Q. Your joint affidavit says that Buschhauer became conspicuous through his abuses on the Russians. Were Buschhauer's mistreatments known throughout the boiler construction plant?

A. Yes.

Q. Was it known elsewhere in Lowag [locomotive and railway car works]

A. I don't know that. In the boiler construction department they did know.

* * * * * * *

Q. Now, there were some statements in your joint affidavit about food and about the improvement in the food situation. Now, can you say that the food increased sufficiently so that the food was adequate?

A. I could not say that.

Q. In the joint affidavit you say that it is a fact that the Russian prisoners of war later on received sufficient quantities of food, or at least your joint affidavit with three other people states that. Is that your own view?

A. Yes.

Q. The quantities were sufficient? Was the food itself of good quality and well prepared?

A. I cannot say that.

Q. Did you see the food that was given to them at the plant, the plant meal?

A. Most of the time, because we had a Russian with us who

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* Reproduced above in section VIII G 2.

came to us while working and often showed us this, because he was working in that corner.

Q. What was your own opinion about the food you saw?

A. Sometimes it was good; some days it was not so good.

Q. In discussing the case where Buschhauer took a Russian into a bathroom, together with another worker, in your joint affidavit you mention the name of Rogge. Is that the same Rogge who was alleged to have hit another worker, in the affidavit I read to you a few moments ago by one of the other defense witnesses?

A. That was this Rogge who used to be our Obmann [overseer].

Q. How long did he continue to work in that plant?

A. It was shortly after 1943.

Q. Was he ever punished for mistreatment, except to be reprimanded?

A. I don't know that.

Q. You do know that he continued to work at the plant?

A. Yes.

* * * * * * *

Q. Did you ever learn of any Krupp ruling that if a case of mistreatment occurred which might be known to you personally, that you should report it?

A. No.

Q. You were not under any obligation according to plant rules to report mistreatment by someone else?

A. No.

Q. Did you ever receive any specific directives advising that you should not, together with other employees, beat foreign workers or mistreat foreign workers?

A. No.

Q. Did you know of any plant instructions specifically prohibiting beating of foreign workers—or was the question never taken up?

A. No, it was never discussed.

Q. Do you know of any specific plant instructions advising workers that they should not beat up other workers? Whether foreign or German?

A. No.

Q. How long did you work for the Krupp firm?

A. Nineteen years without a break.

MR. GOLDENBERG: I have no further questions.

REDIRECT EXAMINATION

DR. HAACK: Witness, I would like to refer again to the rumors circulating in your workshop about the removal of Buschhauer. What was talked about in the workshop and what was given as the reason for his removal?

WITNESS BEDUHN: Well, they said the reason was that Buschhauer had mistreated the Russians too much. That is why he was to leave.

Q. Did you assume as a result that Buschhauer did not leave voluntarily but, as you said, he was removed?

A. Yes, he did not go voluntarily.

Q. Do you know whether Buschhauer, if he could have found work in another workshop, also would have had dealings with Russians still?

A. I don't know that.

Q. During cross-examination you said that at the beginning it occurred that Russian prisoners of war broke down, collapsed. What do you think is the reason why they collapsed in as far as you knew conditions there?

A. Only because of the food, because they looked like they were in such bad physical condition.

Q. I understand you correctly then, that their physical condition was not good when they came into the plant?

A. Yes, when they came to the plant.

Q. Did you see whether this physical condition improved in the course of time in the case of the Russians?

A. The people whom we had in our department had put on 20 pounds of weight in 1944.

Q. Is that your estimation?

A. Yes.

Q. During the cross-examination you also talked about the food and the supplies given to the prisoners of war and in that connection you also answered in the affirmative to the question whether what you said in the statement of May 1947, which you made for the prosecution, was correct. May I put the following to you? You said the food the Russians received consisted only of a watery soup and a few leaves of cabbage and a few frozen potatoes, and the food which was brought in buckets, smelled bad.

A. Yes, that is right, it smelled bad. I saw that twice.

Q. The soup, or the food which the prisoners of war got always consisted of a thin watery soup, as you said?

A. Not always.

Q. What did you also see?

A. That it was bad sometimes.

Q. Surely you made a mistake now. We are talking about something bad, and the contrary would be something good. In the affidavit to the witness—

COMMISSIONER FRIED: What was the witness' last answer to your questions? Will you please repeat your question, Counsel?

DR. HAACK: When you saw the food for the prisoners of war, did you see only a thin watery soup or, to say it plainly, was the food sometimes solid?

WITNESS BEDUHN: Sometimes it was quite thick. There was cabbage in it and all kind of things.

Q. What was this food like compared to the food the Germans received from the works kitchen, was it the same, was it better, or was it worse?

A. I cannot say anything about the works kitchen because I did not eat the food from there. I don't know what that food was like.

Q. Why do you think that the food sometimes smelled bad?

A. I wasn't used to that kind of food from my home.

Q. Did you know that the Russians often got turnips and potatoes?

A. Yes, I know that.

Q. And do you know that this food smelled bad, as it was?

A. Yes, that is, it smelled rather strong. Yes it did.

* * * * * * *

Q. Finally, you talk about instructions concerning the treatment of the foreign workers, or you said here that you did not see any such regulations. Do you know that the firm of Krupp issued instructions that foreign workers, including prisoners of war, were to be treated decently and correctly?

A. No, I do not know that.

Q. Did anyone in your workshop, a foreman or a plant assistant or the plant manager, point out to you that you were to treat them correctly and decently.

A. No, no.

Q. Did you consider it a matter of course that the foreign workers, including the prisoners of war, were to be treated correctly?

A. Yes, yes, that is my opinion.

Q. Is it correct that at least on one occasion when Bauschhauer was reprimanded by Theile in your presence, did you hear on that occasion that ill-treatment for foreign workers and prisoners of war were prohibited?

A. Yes, on one occasion.

DR. HAACK: No further questions.

MR. GOLDENBERG: I have one or two questions on recross-examination.

RECROSS-EXAMINATION

MR. GOLDENBERG: Was there any heavy work done in your shop?

WITNESS BEDUHN: Yes.

Q. Who did the heavy work?
A. Germans.
Q. Germans alone?
A. Yes, the heaviest labor was performed by the Germans only.
Q. No types of foreigners?
A. No, not the heaviest labor. I cannot say that.
Q. Were they considered too weak?
A. In my opinion it was so.
Q. All right.

COMMISSIONER FRIED: Witness, I have one question only for clarity's sake. You referred repeatedly to the removal of Buschhauer. Did you mean that he was removed from that particular workshop or that he was entirely dismissed from Krupp employment?

WITNESS BEDUHN: I cannot say that. I only know that he was transferred to another workshop.

Q. So you mean that after the removal he was employed in another Krupp workshop?
A. Yes.

[Recess]

TRANSLATION OF VON BUELOW DOCUMENT 1002 DEFENSE EXHIBIT 3117

AFFIDAVIT OF JOSEF LORENZ, OF THE INVESTIGATION DEPARTMENT OF KRUPP'S PLANT POLICE, 9 JUNE 1948, CONCERNING THE BEATING OF A RUSSIAN PRISONER OF WAR[1]

I, Josef Lorenz, born 19 January 1896, residing in Kettwig-Ruhr, Augustastr. 3, am aware of the significance of an oath, and know that I render myself liable to punishment if I make a false affidavit. I herewith declare the following on oath:

During the war I was plant police supervisor with Messrs. Krupp, and worked in the investigation department.

I have been shown the letter from the prisoner of war labor detail No. 1203/8 to the locomotive and car construction plant at Messrs. Krupp, dated 26 February 1944, submitted by the prosecution as Document NI–2917 [Pros. Ex. 1521][2] in rebuttal document book 2–B. This letter mentions the fact that there was a fight between a Belgian civilian worker and the Russian prisoner of war Maksin. The Belgian is said to have called the plant police, whereupon a member of the plant police beat Maksin so severely that he was rendered unfit for work. I can still remem-

[1] Extracts from the testimony of Josef Lorenz are reproduced above in section VIII C 4.
[2] Reproduced above in section VIII G 1.

ber the report, a copy of which was sent to the plant police. I must make a correction with regard to the text of this letter, namely that it was not a member of the plant police who was involved in the affair, but two men working at the plant, who had been appointed to supervise the prisoners of war. The plant police investigated the case and ascertained that the two guards had overstepped their authority. They were subsequently fined a week's wages of 50 RM by the plants responsible.

Nuernberg, 9 June 1948

[Signed] JOSEF LORENZ

TRANSLATION OF LEHMANN DOCUMENT 555
DEFENSE EXHIBIT 1023

AFFIDAVIT OF DR. ROHLFS, PHYSICIAN TO PRISONERS OF WAR WORKING AT KRUPP, 22 APRIL 1948, CONCERNING GENERAL CONDITIONS[1]

I, the undersigned Dr. med. Rohlfs, physician, in Peckelsheim, Schweckhauser Strasse, am aware that I render myself liable to prosecution if I make a false statement on oath. I declare on oath that my statement is true and that it was made for use as evidence at the Military Tribunal in the Palace of Justice, Nuernberg, in the case against Alfried Krupp et al.

In my capacity as a camp physician in Stalag IV J[I][2] Krefeld–Fichtenhain, I was in constant touch with Krupp's prisoner of war labor details from about 1942 on, until the beginning of 1945. As a rule, I conferred and carried on negotiations with Dr. Lehmann in his office.

The housing of prisoners of war in the stone barracks of Krupp's camps did not give cause for complaint. Medical care for prisoners of war was always insured. Physicians of every nationality were on duty, aided and supervised by German civilian physicians in Essen. We were always greatly helped by Krupp's in securing medicines and medical equipment, as well as hospital rooms required. As particularly significant I should like to mention that towards the end of 1944, I found Russian prisoners of war in beds with white sheets in an auxiliary hospital of Krupp's.

I remember distinctly that the incidence of illness was especially low among western prisoners of war; somewhat higher among Russians, but still far below the average elsewhere. This circumstance alone shows that the nutrition of the prisoners of

[1] Extracts from the testimony of Dr. Rohlfs are reproduced immediately below.

[2] Dr. Rohlfs testified that "Stalag IV-J" was a typographical error, and corrected it to "Stalag VI-I."

war, also of the Russian prisoners, was at least sufficient where Krupp was concerned.

Unfortunately my statistics made on the state of health of prisoners of war in every camp at that time are not available to me any more; else I should be able to furnish additional proof of these facts which are fixed in my memory.

The Russian prisoners of war arriving in Stalag IV J[I] from the end of 1941 on, were in a miserable condition on their arrival. For this reason they were not put to work at all by Krupp's at first, but were indulgently treated weeks while being given additional food, and only put to work gradually.

Here I should like to emphasize Dr. Lehmann's benevolence and readiness to help. At all times he showed greatest understanding for the interests of the prisoners of war and the suggestions and wishes of the Stalag. It is due to the initiative of Dr. Lehmann that additional food was procured for the prisoners of war, making possible an improvement of their state of health, particularly of the prisoners of war. Food was checked by me in the course of all my inspections.

As far as I know, prisoners of war were never ill-treated at Krupp's. Prisoners of war, who had special confidence in physicians, never complained to me.

As far as I remember the French camp Noeggerathstrasse was bombed out several times. Every time I was on the spot with medicines or bandages even in the night or in the morning after the attacks and am thus especially well informed about this camp. After the first destruction we found the prisoners of war in a railroad tunnel. Some lay on straw in the open. The French physician had also taken up his station along the railroad tracks and refused to be relieved as suggested by me. I was impressed by the prisoners' good spirits. They sang, and prepared the contents of their gift packages over an open fire. It was repeatedly suggested to the French prisoners of war that they should transfer the camp to another spot, but they always refused and zealously started to rebuild their camp on the very day after every attack.

I remember distinctly that also in this case it was again particularly Dr. Lehmann who, in spite of the greatest difficulties, used his influence for the procurement of materials required for reconstruction.

Peckelsheim, 22 April 1948.

[Signed] Dr. Theodor Rohlfs

EXTRACTS FROM THE TESTIMONY OF DEFENSE WITNESS DR. THEODOR ROHLFS BEFORE COMMISSION III*

DIRECT EXAMINATION

* * * * * * *

DR. HAACK (associate counsel for the defendant Lehmann) : And what was the percentage of prisoners of war who were ill: let us first take the French prisoners of war.

WITNESS ROHLFS: In the case of the Frenchmen, of course, it was the best of all. It was much better than the illnesses of the German workers in peacetime.

Q. Can you give us some percentages, Witness?

A. If I remember correctly, the peacetime rate was—in German workers—was 3 to 4 percent, while we were able to reduce the rate of illness in the case of French prisoners of war to 2.5.

Q. Will you please just speak a little slower?

What was the percentage in the case of other prisoners of war, and especially the Russian prisoners of war?

A. The western prisoners of war had a slightly higher rate of illness than the Frenchmen. The Italians had a very high rate of illness, but then I believe it was reduced to about 4 percent. In the case of the Russians the rate of illness, in the beginning, was extremely high. If I remember correctly it must have been about 35 percent.

Q. What in your opinion, is the reason for the fact that the rates of illness of the Russian prisoners of war was so very high at the beginning?

A. This very high rate of illness is certainly caused by the strains of the transport and perhaps also during their state in the collection camps; in any case they arrived in a really deplorable physical condition in our area.

* * * * * * *

CROSS-EXAMINATION

MR. MANDELLAUB: Your Honor, I shall question the witness in his own language, which is German. Witness, how many prisoners of war were assigned to Krupp through you in your own camp?

WITNESS ROHLFS: I am sorry, I cannot answer this question; I don't know.

Q. Were you the camp physician of Stalag VI-I?

A. Yes.

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* Complete testimony is recorded in the mimeographed transcript, 19 May 1948, pp. 8551–8573. The examination reproduced herein principally concerns Rohlfs' affidavit, Lehmann Document 555, Defense Exhibit 1023, reproduced immediately above.

Q. How many people were there in Stalag VI-I?

A. There were up to 80,000 in the whole district area of Duesseldorf.

Q. Then do I understand you correctly that Stalag VI-I was a whole collection of camps?

A. Yes, there were several hundred camps.

Q. And of these camps, individual ones were made available to Krupp?

A. Yes, certain ones were for Krupp.

* * * * * * *

Q. Until 1942 therefore, you don't know anything about these three camps in Essen.

A. No, I was never there before that.

Q. But from 1942 on you were informed?

A. Yes, I was informed.

Q. You say in your affidavit that you negotiated with Dr. Lehmann?

A. Yes, I have often negotiated with Dr. Lehmann.

Q. Now, you state in your affidavit these negotiations took place from 1942 on, until the beginning of 1945.

A. Yes.

Q. Did these conferences ever deal with the prisoner of war camps in Essen?

A. Yes, only about that subject; I never discussed anything else with Dr. Lehmann.

Q. And on the basis of these negotiations you can here state, under oath, that the situation of the prisoners of war in Essen, and particularly that of the Russian prisoners of war, was satisfactory?

A. Yes, it was satisfactory, as far as possible under the then prevailing conditions.

* * * * * * *

Q. You said at the beginning the Russians had a rate of sickness of 35 percent. If I remember correctly, that must have been 35 percent.

A. Yes.

Q. This percentage then was reduced to 6 percent. Is that correct?

A. Yes. I remember this figure very decidedly.

Q. Of what date?

A. I am afraid, I can't say that. We were successful in reducing the rate of illness in the case of the Russians to such an extent that the percentage of illness fluctuated around 6 percent.

Q. How many cases of death did you have?

A. I'm afraid I can't give you figures for that. At the beginning, because of extreme weakness and exhaustion and because of tuberculosis, many of them died, but that, too, later was reduced to a normal rate.

Q. Is it, therefore, correct to assume that part of this reduction of illnesses, in the case of Russian prisoners of war, might also be caused by death?

A. Yes, of course; I said before, as far as there was space available, we transferred the serious cases from the camps into the sick camps, and after they were cured we sent them back. Of course, some of these people died, but a large part were cured and afterward fit for work.

* * * * * * *

TRANSLATION OF KUPKE DOCUMENT 53
DEFENSE EXHIBIT 1828

AFFIDAVIT OF EUGEN LAUFFER, TECHNICAL MANAGER IN KRUPP'S HOUSING ADMINISTRATION, 5 MARCH 1948, CONCERNING KRUPP'S EFFORTS TO PROVIDE BETTER AIR RAID SHELTERS THAN PERMITTED BY THE AUTHORITIES*

I, Eugen Lauffer, resident in Dortmund, Damaschkestrasse, 1½, herewith declare the following on oath for use in court and in particular before the American Military Tribunal in Nuernberg, having been instructed as to the meaning of the oath and as to the fact that I shall render myself liable to punishment by making a false affidavit:

I was technical manager and group chairman in the Krupp housing administration in Essen.

In constructing air raid shelters in the camps for foreign civilian workers we did far more than was allowed for by the authorities. Our efforts were directed towards providing at least the same shelter for the inmates of these camps, insofar as it was possible, as the German civilian population had.

Very detailed instructions had been issued by the Reich Armament Ministry for the construction of barrack camps and their supplementary equipment, including air raid shelters. According to these directives, at least up to the end of 1943, only the preparation of so-called open shelter trenches was permissible. These are shelter trenches such as were largely prepared at the begin-

* Testimony of Eugen Lauffer is recorded in mimeographed transcript, 5 June 1948, pp. 11472–11478.

903432—51——84

ning of the war in public parks for the protections of the civilian population, mere ditches, about 1.80 m. deep, lined with boards or faggots, roofed with boards or planks, and finally covered with excavated earth. Where the ground water level prohibited the preparation of such trenches, so-called walls round the barracks had to suffice. These were walls of bricks stacked dry, which were to be erected at a distance of about one-half meters from the hutments, and were to reach to about two-thirds the height of the windows.

We refused to erect such, in our opinion, inadequate air raid shelters. At my instigation, contrary to these orders, in the Bottroperstrasse barrack camp, among many others, splinter-proof air raid shelters and moreover a solidly built dug-out for 1000 people with a vault thickness of 1½ bricks and covered with earth several meters deep, had already been erected as early as the summer of 1941. The Essen branch office of the Speer Ministry (responsible department chief Mr. Barlen), and the air raid protection offices in the government at Muenster (Baurat Goebel) had already declared more shelter trenches to be sufficient and had refused permission or supplies for further provision. I myself took part in some of the discussions with the Essen branch office of the Reich Armament Ministry, in which this refusal was announced.

Later, we, together with the construction office of the Krupp firm, developed a system of solidly built shelters resembling a mine gallery, consisting of a tunnel-like passage with walls of cement or cement bricks at least 30–40 cm. thick and a vaulted roof of the same thickness, covered with earth at least a meter deep. These shelters were completely dry, splinter and incendiary bomb proof. They proved their worth everywhere, which is demonstrated by the fact that the losses in foreign civilian workers during air raid attacks on the Essen camps of the Krupp firm were considerably less percent than the losses in the German civilian population.

Moreover, the camps were without exception in the areas which were most affected.

[Signed] EUGEN LAUFFER

IX. PHOTOGRAPHIC REPRODUCTIONS OF DOCUMENTARY EVIDENCE

DR.-ING. DR. MONT. H. L. KORSCHAN
Vorsitzer des Vorstandes
der Fried. Krupp Berthawerk A.G., Breslau

Breslau, den 10.2.44

NIK-7248

1127

Herrn
Dipl.-Ing. Alfried Krupp v.Bohlen und Halbach

E s s e n
Fried. Krupp Gußstahlfabrik

H.V. 21109
v. 24/2.44

Sehr geehrter Herr von Bohlen!

In der Anlage übersende ich Ihnen den Monatsbericht des Berthawerks für Januar 1944.

Mit freundlichem Gruss und

Heil Hitler!

Ihr

Korschan

Herrn Goerens
Herrn Houdremont
Herrn Erich Müller
Herrn Janssen
Herrn Eberhardt
Herrn Ihn
Herrn Schröder

1 Anlage.

Herrn v. Sundhoff
Herrn Fritz Müller

Document NIK–7248, Prosecution Exhibit 1127, signed by defendant Korschan and initialed by defendant Erich Mueller, transmitting to defendant Krupp a monthly report showing number of concentration camp inmates employed at the Bertha Works. Translations of this document and of the report extracts appear on pages 747–749.

NI-2868

-/-

Antrag auf Bewilligung von

RM 2.000.000,--

für Einrichtung einer Fertigungsstätte für Teile von automatischen Waffen (Auschwitz).

Gußstahlfabrik, den 9. Sept. 1942.

H.V.
15 SEP 1942 07985
Beantw:

Fried. Krupp
Aktiengesellschaft

Essen

Die Entwicklung von automatischen Waffen durch AK hatte vollen Erfolg. Es war uns aber nicht möglich, die von uns entwickelte 3,7 cm Waffe auch serienmäßig zu fertigen, da wir weder auf der Gußstahlfabrik noch auch auswärts Räume, Einrichtungen und Arbeitskräfte dafür bereitstellen konnten.

Die Wehrmacht hat daher die Firma Dürkopp, Bielefeld, bei der diese Voraussetzungen gegeben sind und die bereits Erfahrungen in der Herstellung automatischer Waffen besitzt, mit der serienmäßigen Fertigung betraut. Um an der Fertigung dieser Automaten beteiligt zu sein und praktische Erfahrungen sammeln zu können, haben wir von der Wehrmacht Auftrag auf Herstellung aller Nachschub- und Ersatzteile (d.s. 30 bis 60 % der laufenden Fertigung) übernommen. Unser Ziel ist, auf diesem Wege eines Tages die Fabrikation der vollständigen 3,7 cm Automaten in unsere Hand zu bekommen, da den automatischen Waffen die Zukunft gehört und die Konstruktions- und Fertigungserfahrungen bei diesem Kaliber

b.w.

Anlagen:
1 Kostenanschlag

Hebrand.

Document NI–2868, Prosecution Exhibit 1178. Page one of approval for construction of gun factory at Auschwitz, initialed at top center by defendants Krupp and Loeser. Handwritten note on left margin has initials of Loeser ("Loes") at bottom. "A.v.Bohlen" by defendant Krupp appears at bottom on left of Loeser's initialing. Translation appears on page 708.

-2- NI-2868

von Bedeutung für die Entwicklung von automatischen Waffen größerer Kaliber sein werden.

Zur Durchführung des vorgenannten Auftrages hat das OKH die Errichtung einer Fertigungsstätte in Auschwitz (General-Gouvernement) verlangt. Die erforderlichen Werkstattgebäude sollen von der Waffen-SS erstellt und an uns vermietet werden. Maschinen und Einrichtungen sollen von uns beschafft werden; die Betriebsführung wird in unseren Händen liegen. Die benötigten Arbeitskräfte wird das Konzentrationslager Auschwitz stellen.

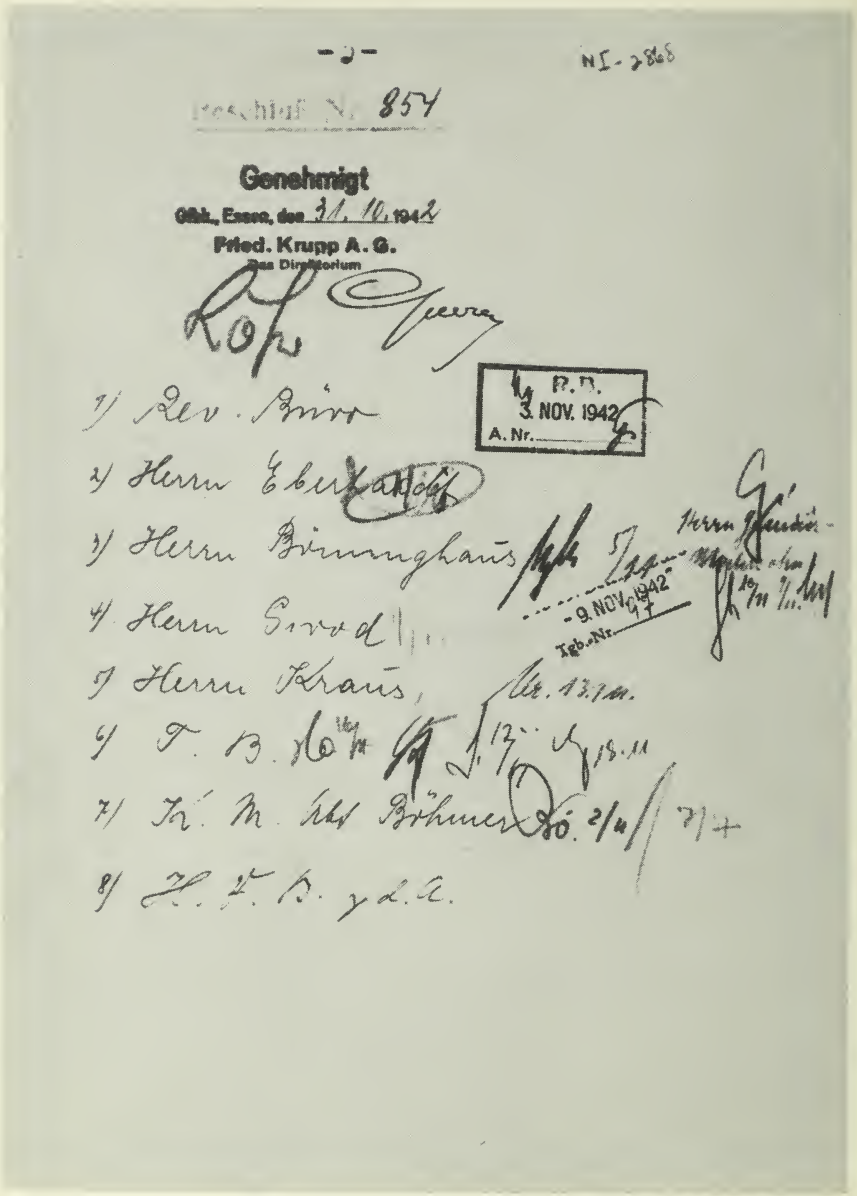
Da beabsichtigt ist, die Fertigung etwa im Frühjahr 1943 anlaufen zu lassen, müssen möglichst bald die notwendigen Maschinen sichergestellt werden. Beiliegender Kostenanschlag, abschließend mit einem Betrage von RM 1.422.700,--, enthält diejenigen Maschinen, die für die Erledigung der vorgesehenen Fertigung unmittelbar benötigt werden.

Nicht enthalten sind in dem Anschlag die Maschinen für Herstellung und Instandhaltung von Werkzeugen und Vorrichtungen, sogenannte Hilfsmaschinen und Härteöfen. Über die Kosten dieses zusätzlichen Maschinenbedarfs einschließlich der übrigen Betriebseinrichtungen und sonstigen Kosten werden wir einen Zusatz-Kostenvoranschlag nach Klarstellung in Kürze nachreichen. Den vorgenannten weiteren Bedarf schätzen wir unverbindlich auf RM 500.000,-- bis 600.000,--, sodaß das ganze Objekt zunächst auf abgerundet RM 2.000.000,-- veranschlagt werden kann.

Wir bitten, in dieser Höhe die geplante Erstellung der Fertigungsstätte Auschwitz zu genehmigen.

Boehminghaus und Eberhardt

Document NI–2868, Prosecution Exhibit 1178. Page two of approval for construction of gun factory at Auschwitz, noting that the concentration camp will furnish necessary labor, and showing signatures of Boehminghaus (left) and defendant Eberhardt (right).



Document NI–2868. Prosecution Exhibit 1178. Back of page two of approval for construction of gun factory at Auschwitz, initialed by defendants Loeser and Eberhardt, as well as others of the Krupp concern.

NI-2965

7. September 1943

EINSCHREIBEN

Geheim!

Herrn
Oberstleutnant Dr. v. W e d e l ,
Oberkommando des Heeres (Wa J Rü Mun 2)
Zünderbeschaffungsabteilung,
B e r l i n W 35
Tirpitzufer 40

Betrifft: Verlagerung der Zünderfertigung nach Auschwitz

Sehr geehrter Herr Oberstleutnant!

Aus Ihrem Schreiben vom 26. vor. Mts. habe ich entnommen, daß Sie der Auffassung sind, daß seitens der Firma Krupp nicht alles getan worden ist, um die Zünderfertigung in Auschwitz schnellstens zum Anlauf zu bringen. Es scheint mir hier ein Mißverständnis vorzuliegen, insofern als der Fertigstellungstermin der Halle als die Grundlage für das Ingangbringen der Zünderfertigung angenommen worden ist. In Wahrheit ist es aber doch so, daß die uns über OKH zur Verfügung gestellte Halle ja für eine andere Fertigung vorgesehen war, die im Frühjahr 1943 anlaufen sollte. Nachdem nun unsere Zünderfertigung in Essen ausgefallen war, haben unsere Herren Herrn Oberst Zimmermann auf die Möglichkeit der Belegung dieser Halle mit einer Zünderfertigung aufmerksam gemacht.

In der entscheidenden Besprechung am 25. März 1943 wurde seitens Wa J Rü Mun gefordert, daß als Anlauftermin für die Fertigung in Auschwitz Juli 1943 anzustreben sei. Von unseren Herren wurde bereits damals darauf aufmerksam gemacht, daß die Einhaltung dieses Termines vorwiegend von der Zurverfügungstellung der Maschinen und Pressen bezw. von der Instandsetzung dieser Einrichtungen abhängig sei. Leider ging die Heranführung der Maschinen nicht in dem von Wa J Rü Mun geforderten Tempo vorwärts, so daß unsere Herren wiederholt, zuletzt Mitte Juni, bei Herrn Oberst Zimmermann vorstellig wurden, um um Unterstützung und Beschleunigung bei der Heranführung der fehlenden Einrichtungen zu bitten.

Daß

Document NI–2965, Prosecution Exhibit 1205, denying Krupp's responsibility for delay in starting fuse production at Auschwitz. Initialing of defendant Mueller ("Mue") appears at top next to "Geheim!" stamp. Distribution list at bottom includes codes for defendants Eberhardt, Korschan, and Mueller. Translation appears on page 738.

N'

NI-2965

Daß der angestrebte Termin Ende Juli nicht erreicht werden konnte, war also bereits durch die Besprechung im Juni dem OKH bekannt.

Ich darf mir erlauben, auf die Sitzung in Berlin am 1. ds. Mts. hinzuweisen, in der ja wohl eine Bereinigung der Atmosphäre bereits eingetreten ist. Wir hoffen nun, im Oktober mit dem Ausstoß von Zündern beginnen zu können, und setzen alles daran, schnell zum Hochlauf zu kommen.

Daß das Schreiben von Anfang August ds. Js. an Herrn Direktor Reiff nicht rechtzeitig beantwortet wurde, ist bedauerlich, aber auf die Störungen in Essen einerseits und die Versetzung des Herrn Reiff nach Breslau andererseits zurückzuführen. Ich habe Herrn Reiff beauftragt, sich der Fertigung in Auschwitz besonders anzunehmen, wozu er von Breslau aus ja die beste Gelegenheit hat. Herr Reiff hat bereits vor einigen Monaten Gelegenheit genommen, Auschwitz zu besuchen und mit den dortigen Herren alles Notwendige zu besprechen.

Was die Mitarbeit unseres Technischen Buros in Breslau anbelangt, so kann ich nur sagen, daß zwischen diesem Büro und Auschwitz die engste Zusammenarbeit besteht und für die Folge auch gesichert ist.

Mit besten Empfehlungen und Heil Hitler

Ihr sehr ergebener

gez. A. v. Bohlen

- End -

NI-190

Document NI–2965, Prosecution Exhibit 1205. Page two of letter denying Krupp's responsibility for delay in starting fuse production at Auschwitz, bearing stamped signature of defendant Alfried Krupp von Bohlen.

NIK-12362

Krefeld, den 7.10.1943.
Tgb.-Nr. 94/43 Geheim.

Lehm 11/10

Vermerk

Betr.: Besprechung mit Herrn Hauptmann Bergmeier wegen Bestrafung von Kriegsgefangenen

Ich besprach mit Herrn Hauptmann Bergmeier den Vorgang des russ. Kriegsgefangenen Gagiel. Am 9.8. habe ich mit der Kompanie unmittelbar auf die Meldung des Herrn Dr. Komm hin gesprochen. Herr Dr. Komm hatte gemeldet, dass der Russe deutschen Gefolgschaftsmitgliedern gegenüber u.a. sich wie folgt geäussert hätte: " In Deutschland ist bald alles kaputt, dann werden allen Bürovleuten, Vorarbeitern, Meistern, Betriebschefs usw. der Hals abgeschnitten. Dann werden wir (die Russen) in den guten Häusern wohnen; ihr Deutschen müsst dann in Baracken wohnen!" Die Kompanie hatte zugesagt, den Fall sofort aufzugreifen und den Russen der Bestrafung zuzuführen. Tatsächlich hat sich die Bestrafung aber sehr lange hinausgezögert, mittlerweile ist Gagiel flüchtig geworden. Tatsächlich ist also nichts geschehen. Es kommt hinzu, dass deutsche Gefolgschaftsmitglieder und russ. K.G. den Gagiel frei im Lager haben herumlaufen sehen und hierüber ist im Betriebe gesprochen worden.

Ich besprach mit Herrn Hauptmann Bergmeier, wie in Zukunft solche Fälle behandelt werden könnten: Herr Hauptmann B. sagt mir: In ganz krassen Fällen sollten wir die Kompanie anrufen und bitten, den Mann vorläufig festzunehmen, gleichzeitig aber beschleunigt ihn in Krefeld anzurufen (Tel. 24347, Nebenanschluss 14). Er würde sich dann sofort des Falles annehmen. Die Strafmöglichkeiten sind folgende:

a) Durch den Betrieb
Diese können den Russen alle Vergünstigungen wie Zigaretten, Lebensmittelzulagen, etwaige Leistungsprämien usw. entziehen.

b) Durch den Lagergruppenführer, falls dieser Offizier ist, kann auf 24 Stunden Einschluss bei Wasser und Brot erkennen.

c) Der Kompanieführer kann auf mehrere Tage Arrest erkennen, wobei diese Arreststrafe so verbüsst werden kann, dass der Mann seine Arbeit verrichtet und nach Beendigung der Arbeit täglich seine Strafe antritt.

Ist die Straftat derart, dass sie mit solchen Disziplinarstrafen nicht geahndet werden kann, so wird sie bei sonstigen Kriegsgefangenen

Document NIK–12362, Prosecution Exhibit 998. Page one of a file note of defendant von Buelow initialed by defendant Lehmann, concerning punishment of prisoners of war. Initialing of Lehmann ("Lehm 11/10") appears at top right below date. Translation appears on page 910.

NIK-12362

-2-

dem Kriegsgericht übergeben, Russen werden jedoch der Stapo zugestellt. Die Stapo erkennt in solchen Fällen regelmässig auf Todesstrafe, die evtl. unter Heranziehung eines Kommandos von anderen russ. Kriegsgefangenen vollzogen wird.

Herr Hauptmann Borgmeier wird auf die Kompanie-Offizier in dem Sinne einwirken, dass Bestrafungen der von uns zur Meldung gebrachten Kriegsgefangenen uns zur Bekanntgabe in Betriebe und an die übrigen Kriegsgefangenen mitgeteilt werden.

Falls Gagiel wieder gefasst und auch als solcher erkannt wird, so wird Herr Hauptmann Borgmeier sich unverzüglich mit uns ins Benehmen setzen. Wir waren uns einig, dass Übergabe an die Stapo in diesem Falle doch die richtige Strafe sein würde.

D/Herrn Hptm. Borgmeier
Herrn Dr. Lehmann
Herrn Dr. Gummert

Herrn Dr. Gummert

Aus vorstehendem Vermerk bitte ich zu ersehen, dass in Zukunft solche Vorfälle nach den getroffenen Vereinbarungen laufen werden. Den Inhalt des Vermerks bitte ich aber vertraulich zu behandeln, insbesondere wegen der Todesstrafe. Herrn Dr. Konz bitte ich mit der gleichen Auflage zu unterrichten.

gez. von Bülow

Document NIK–12362, Prosecution Exhibit 998. Page two of file note concerning punishment of prisoners of war bearing stamped signature of defendant von Buelow and noting that certain prisoners of war turned over to the Gestapo are executed.

X. FINAL STATEMENTS OF THE DEFENDANTS*

JUDGE DALY, Presiding: Under Military Government Ordinance No. 17 there is a provision that each defendant may make a statement to the Tribunal. That opportunity is now afforded to each defendant in this case. Those defendants who desire to make statements may make them now.

DEFENDANT LOESER: Mr. President, Your Honors. "Once liberty is lost it is too late." These were the final words of the message that Secretary of State Stettinius delivered before the Congress of the United States on the occasion of the introduction of the United Nations Organization Security Council bill. We in Germany have had bitter experience of the truth of this warning. "Once liberty is lost it is too late," is written in black letters at the head of that chapter of German history which begins in 1933.

The terrible thing at that time was that the vast majority of the German people did not realize what was happening and how they were being cheated. It was only 1934, after the so-called Roehm-Putsch that one person or another was startled and awakened as it were from the intoxication inflicted on the people by the falsely glittering speeches, parades, and popular festivals of the men in brown. But it was too late.

In August the old Marshal and President von Hindenburg died. From that moment on Germany had one man who was at the same time leader of the only legal party, chief of state, supreme commander of the armed forces, chief of the government, law maker, and supreme judge, thus embodying in this person the most gigantic power that can possibly be imagined.

From now on the people and the national economy became the victims of this Hitler, who abused the power of State for his own purpose and held in contempt the ethical dignity of men, in that he destroyed the personality with its own sense of responsibility and coerced it into his governmental machine. The evil that emanated from the head of the State asserted its will throughout the country with a power that was all embracing. The foundations of law and morals were shaken.

There was no means of opposing this, such as is available to the citizens of free societies, no right of opposition, no freedom of the individual or of conscience, not even the technical assistance of a brake on the state machine. There was no room for the

* Only the defendants Loeser and Alfried Krupp elected to make a statement to the Tribunal. However, the defendant Krupp in beginning his statement said, "My codefendants have asked me when speaking the final words in this trial to do so on their behalf as well."

Final statements of defendants are recorded in mimeographed transcript, 30 June 1948, pp. 13215–13220.

formation of a party or a movement. One thing, however, formed, the rebellion arising from the human distress which increases as the work of people loses its meaning, because it must be performed under the irresistible compulsion of a presumptuous dictatorship which disregards the convictions of the personal conscience which has its source in God.

This need brought together clandestinely men and women from all circles of the population and forged them into an underground community which today we call the German resistance. The conspirators, generally speaking, knew and met each other only if they were close acquaintances for they had to be careful not to call attention to themselves and thus be caught.

The organizers and leaders of the resistance were anxious to fill positions which could offer them a secure platform as a starting point for the intended *coup d'etat*. As a matter of course they, as everyone else in Germany, were forced to consider their professional and political effectiveness as they existed in the Hitler regime. I, too, took the same path as these men. It culminated before the People's Court. That the latter's death sentence was not executed and that I am now standing here is more than a miracle.

DEFENDANT ALFRIED KRUPP: Mr. President, Your Honors. My codefendants have asked me when speaking the final words in this trial to do so on their behalf as well. When in 1943 I became the responsible bearer of the Krupp name and tradition, little did I anticipate that this legacy would one day bring me into the defendant's dock, just as little as my associates anticipated when years and decades ago they joined a firm whose good reputation seemed unshakeable. And yet the name of Krupp was on the list of war criminals long before the end of the war, not because of the charges to which the prosecution is compiling against us now, but because of a notion which is as old as it is fallacious:

Krupp wanted war and Krupp made war.

You gentlemen of the Tribunal have recognized the notion for what it is, a misconception with some, with others a lie.

As a member of the fifth generation which produced steel, the fourth generation which forged weapons, I should like to add one thing. Never in my parents' home nor in my family did I hear one word or experience one act which welcomed or promoted any war at any place or at any time. The symbol of our house does not depict a cannon, but three interlocked wheels, emblem of peaceful trade.

With the ruling acquitting Krupp from the responsibility for war, you have served the truth. The International Military Tribunal before which my father was indicted would have had to

arrive at the same ruling. Since I consider myself my father's successor in this defendant dock, I ask you to examine what the results of a trial against my father would have been had not his illness prevented its taking place. He was the only industrialist, the only private person in a circle of the highest political and military leaders. Among them there were those who alone knew the most secret aim of national socialism, who alone knew its most vicious methods, and who applied them.

My father certainly did not belong to them. The very contrast would have represented his best defense. His acquittal would have stricken the name and the work of Krupp from the list of war criminals. Fate willed it differently.

I am here in the place of my father, but not I alone. None of our associates and now codefendants would have come here had not the firm which they served borne the name of Krupp. Our position is by far more difficult than that of my father's in the trial of the major war criminals. The very existence of many of his codefendants, their knowledge, and their deeds would have spoken on his behalf. These men are dead, and now their plans of which we did not know, their conferences in which we did not participate are to incriminate us. We are to answer for a system which we did not create, which we only incompletely knew, and of which in many cases we disapproved. The living creators of this system would have testified on our behalf. Are the dead to speak against us now?

In the final analysis the essence of which we are charged with is this: You cooperated. No one will be able to hold it against us that in the emergency of war we took the part of duty, a part which millions of Germans had to take at the front and at home, and which led them to death. If we are being charged with having plundered the occupied territories, this charge will remain incomprehensible to anyone who knows international economic relations. Economics go beyond national borders in peace as well as in war.

In the discussion of the living conditions of foreign workers, apart from the infinite efforts to cope with difficulties of the war, incidents have been mentioned, the seriousness of which I do not wish to belittle. Not even the prosecution maintains that we wanted or caused such incidents. They charge us with indifference toward the laws of humanity. This charge we take seriously. In our enterprise man was always more important than money. My whole education taught me to make our enterprise service the men who worked in it; many of them in the second and third generation. This spirit filled the entire plant. Can you believe that something which took a century to grow can suddenly dis-

appear? We all, defendants and our tens of thousands of workers and employees, do not believe it. We worried and toiled under conditions which are very difficult to understand and judge in retrospect. Indifference toward the fate of our workers is a charge which we do not deserve.

Gentlemen of the Tribunal, the defendants before you did their duty in the war and are conscious of no violation of the laws of humanity which form the basis for a united and peaceful world.

JUDGE DALY, Presiding: Does any other defendant desire to make a statement? Hearing no answer, we take it for granted, that the only defendants who desire to make statements have done so.

XI. JUDGMENT

A. Opinion and Judgment of Military Tribunal III*

The opinion and judgment of Military Tribunal III in the matter of the United States of America against Alfried Krupp, et al., defendants, sitting at Nuernberg, Germany, 31 July 1948, the Honorable Hu C. Anderson, presiding.

JUDGE DALY: This Tribunal was established by and under an order issued by command of the United States Military Commander and Military Governor of Germany (U.S.), and the undersigned were designated as the members thereof. As thus constituted the Tribunal entered upon and completed the trial of the case. The indictment was filed with the Secretary General of Military Tribunals on 16 August 1947 and the case was assigned to this Tribunal for trial. A copy of the indictment in the German language was served upon each defendant on 18 August 1947. The defendants were arraigned on 17 November 1947, each defendant entering a plea of "not guilty" to all charges preferred against him. Thirty-four German counsels selected by the twelve defendants were approved and have represented the respective defendants. One defendant was represented by an American attorney, selected by him, in addition to German counsel.

The presentation of evidence by the prosecution in support of the charges was commenced on 9 December 1947, and was followed by evidence offered by the defendants. The taking of evidence was concluded on 9 June 1948. The Tribunal has heard the oral testimony of 117 witnesses presented by the prosecution and the defendants and 134 witnesses have been examined before commissioners appointed under the authority of Ordinance No. 7, of Military Government for Germany (U.S.) establishing the procedure for these trials. One thousand four hundred and seventy-one documents offered by the prosecution have been admitted in evidence as exhibits. One hundred and forty-five documents offered by the prosecution have been marked for identification. Two thousand eight hundred and twenty-nine documents offered by the defendants have been admitted in evidence as exhibits and 318 documents offered by the defendants have been marked for

* The dissenting opinion of Presiding Judge Anderson to the sentence is reproduced below in section XII. The dissenting opinion of Judge Wilkins to the dismissal of certain of the charges of spoliation is reproduced below in Section XIII.

The judgment of Tribunal III is recorded in mimeographed transcript, 31 July 1948, pp. 13231–13402.

identification. No document marked for identification has been considered unless it was one the contents of which justified us in taking judicial notice thereof.

Ordinance No. 7, referred to above, provides that affidavits shall be deemed admissible. Exercising its right to construe this ordinance, this Tribunal announced at the beginning of the trial that it would not consider any affidavit unless the affiant was made available for cross-examination or unless the presentation of the affiant for cross-examination had been waived, and this ruling has been strictly adhered to.

The Tribunal ruled to the effect that the contents of affidavits made by defendants would only be considered as evidence against the respective affiants and not as against any other defendant unless such affiant or affiants took the witness stand and became subject to cross-examination by the other defendants or their counsel. None of the defendants took the stand to testify upon the issues in this case, and hence such affidavits have only been considered in accordance with the ruling made.

The trial was conducted in two languages with simultaneous interpretations of German into English and English into German throughout the proceedings.

Final arguments of counsel have been concluded and briefs have been filed. Each defendant was given an opportunity to make a statement to the Tribunal in accordance with the provisions of Article XI of Ordinance No. 7 of the Military Government for Germany (U.S.). Two of the defendants availed themselves of it, one in behalf of himself and the other in behalf of himself and the other ten defendants, and their statements were heard by the Tribunal. The briefs and final pleas of defense counsel consist of more than 1,500 pages, and counsel for the defendants consumed 5 days in final arguments. The briefs and arguments covered every conceivable question of law and fact connected with the case. The closing arguments were made on 30 June 1948, and the case was then taken under consideration.

The following named persons, twelve in number, are the defendants:

Alfried Felix Alwyn Krupp von Bohlen und Halbach
Ewald Oskar Ludwig Loeser
Eduard Houdremont
Erich Mueller
Friedrich Wilhelm Janssen
Karl Heinrich Pfirsch
Max Otto Ihn
Karl Adolf Ferdinand Eberhardt
Heinrich Leo Korschan

Friedrich von Buelow
Werner Wilhelm Heinrich Lehmann
Hans Albert Gustav Kupke

The indictment contains four counts, which for convenience may be generally described as follows:

(1) Planning, preparation, initiation, and waging aggressive war.

(2) Plunder and spoliation.

(3) Crimes involving prisoner of war and slave labor.

(4) Common plan or conspiracy to commit crimes against peace.

On 24 February 1948, the prosecution announced that it had completed the presentation of its evidence and rested its case-in-chief. Thereafter, during the session of 5 April 1948, the Tribunal, through the President said, in part, as follows:[1]

> "On March 12 last, the defendants filed a joint motion for an acquittal on the charges of crimes against the peace. We construe this to be a motion for a judgment of not guilty on counts one and four of the indictment on the ground that the evidence is insufficient as a matter of law to warrant a judgment against them on those counts.
>
> "After a careful consideration of this motion, the prosecution's reply thereto, and the briefs and the evidence, we have come to the conclusion that the competent and relevant evidence in the case fails to show beyond a reasonable doubt that any of the defendants is guilty of the offenses charged in counts one and four. The motion accordingly is granted and for the reasons stated the defendants are acquitted and adjudged not guilty on Counts one and four of the indictment."

Following this ruling the Tribunal filed an opinion stating the reasons for its conclusion.

In taking the foregoing action with respect to counts one and four, the Tribunal was guided by the rule as stated in one of the most authoritative American texts. This is as follows:[2]

> "The defense is not required to take up any burden until the prosecution has established every essential element of crime charged beyond a reasonable doubt. When the prosecution has finished its case, the defendant is entitled to an acquittal if the case of the prosecution is not made out beyond a reasonable doubt. When this is done, then, but not before, can the defendant be called upon for his defense."

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[1] This opinion is reproduced above in section VI, together with the separate concurring opinions of Presiding Judge Anderson and Judge Wilkins on the dismissal of the charges of crimes against peace.

[2] Wharton's Criminal Evidence (Lawyer's Coop. Publishing Co., Rochester, N. Y., 1935), volume I, 11th edition, section 200, pp. 220–221.

Consequently in this judgment only those charges which are contained in counts two and three of the indictment remain for consideration.

Following the unconditional surrender of Germany, the supreme legislative authority in that country has been exercised by the Allied Control Council composed of the authorized representatives of the Four Powers: The United States of America, the United Kingdom of Great Britain and Northern Ireland, the French Republic, and the Union of Soviet Socialist Republics. On 20 December 1945, that body enacted Control Council Law No. 10. The preamble to Control Council Law No. 10 is as follows:

> "In order to give effect to the terms of the Moscow Declaration of 30 October 1943 and the London Agreement of 8 August 1945, and the Charter issued pursuant thereto and in order to establish a uniform legal basis in Germany for the prosecution of war criminals and other similar offenders, other than those dealt with by the International Military Tribunal, the Control Council enacts as follows:"

Article 1 reads, in part, as follows:

> "The Moscow Declaration of 30 October 1943 'Concerning Responsibility of Hitlerites for Committed Atrocities' and the London Agreement of 8 August 1945 'Concerning Prosecution and Punishment of Major War Criminals of the European Axis' are made integral parts of this law."

In Article III it is provided that—

> "Each occupying authority, within its zone of occupation, shall have the right to cause persons within such zone suspected of having committed a crime, including those charged with crime by one of the United Nations, to be arrested * * * shall have the right to cause all persons so arrested and charged * * * to be brought to trial before an appropriate tribunal. * * * The tribunal by which persons charged with offenses hereunder shall be tried and the rules and procedure thereof, shall be determined or designated by each zone commander for his respective zone."

Pursuant to the foregoing authority, Ordinance No. 7 was enacted by the Military Governor for the United States Zone of Occupation. Article I provides:

> "The purpose of this Ordinance is to provide for the establishment of military tribunals which shall have power to try and punish persons charged with offenses recognized as crimes in Article II of Control Council Law No. 10, including con-

spiracies to commit any such crimes. Nothing herein shall prejudice the jurisdiction or the powers of other courts established or which may be established for the trial of any such offenses."

Article II provides, in part, as follows:

"Pursuant to the powers of the Military Governor for the United States Zone of Occupation within Germany and further pursuant to the powers conferred upon the zone commander by Control Council Law No. 10 and Articles 10 and 11 of the Charter of the International Military Tribunal annexed to the London Agreement of 8 August 1945 certain tribunals to be known as 'Military Tribunals' shall be established hereunder."

The Tribunals authorized by Ordinance 7 are dependent upon the substantive jurisdictional provisions of Control Council Law No. 10 and administer international law as it finds expression in that enactment and the London Charter which is made an integral part thereof. They are not bound by the general statutes of the United States or by those parts of its Constitution which relate to the courts of the United States.

This Tribunal has recognized and does recognize as binding upon it certain safeguards for persons charged with crime. These were recognized by the International Military Tribunal (IMT). This is not so because of their inclusion in the Constitution and statutes of the United States, but because they are understood as principles of a fair trial. These include the presumption of innocence, the rule that conviction is dependent upon proof of the crime charged beyond a reasonable doubt and the right of the accused to be advised and defended by counsel.

The Tribunal has not given and does not give any *ex post facto* application to Control Council Law No. 10. It is administered as a statement of international law which previously was at least partly uncodified. This Tribunal adjudges no act criminal which was not criminal under international law as it existed when the act was committed.

The original of this opinion and the judgment will be filed in the Office of the Secretary General. If there is any variation from the original in the reading of this opinion or in the mimeographed copies, the original shall constitute the official record of the opinion and judgment.

In examining the evidence in this case and in reaching our conclusions stated herein we have done so realizing that there can be no conviction without proof of personal guilt.

Our conclusions are based, in the main, upon written documents. It appears from the evidence that a great volume of docu-

ments from the files of the Krupp firm were burned by order of the defendant von Buelow and other Krupp officials, shortly before the entry of the Allied troops into Essen. The significance of the burning of these documents is not to be overlooked.

The Krupp concern, as it is frequently referred to, originated with the business known as Fried. Krupp, founded in 1812. This was changed into a corporation (A.G.) in 1903. It was then known as Fried. Krupp A.G. and was a private, limited liability company. Bertha Krupp, the mother of the defendant Alfried Krupp, owned all but a very few shares of this company. The shares not owned by her were held by others for the purpose of complying with legal requirements, and were kept under careful control. In December 1943 Fried. Krupp A.G. was dissolved and in accordance with provisions of the "Lex Krupp," a special Hitler decree, the defendant Alfried Krupp became the proprietor. Since December 1943, the unincorporated, privately-owned concern, owned and controlled directly, and through subsidiary holding companies, mines, steel, and armament plants, two subsidiary operating companies, the Germania Shipyards at Kiel, and the Grusonwerk machinery factory at Magdeburg. Many mines, collieries, development, research, and other enterprises were conducted by and through many of the subsidiaries.

In the charter of the Fried. Krupp A.G. we find the following (*NI–2850, Pros. Ex. 29*) :*

"Article 1

"The corporation bears the name 'Fried. Krupp Aktiengesellschaft.' It is located in Essen on the Ruhr.

"The life of the corporation is not limited to a definite time.

"Article 2

"The purpose of the enterprise is:

"a. The management of the cast steel factory in Essen formerly belonging to the Fried. Krupp firm in Essen, proprietress, Fraeulein [Miss] Bertha Krupp, and its branch establishments and subsidiary works (steelworks, shipyards, machine factories, blast furnaces, coal and iron ore mines, etc.) ;

"b. The production of steel and iron and other metals, as well as all raw and auxiliary materials requisite thereto, processing of steel and iron and other metals for consumer goods, and intermediate products of all kinds, especially the production of railroad and ship construction materials, of war materials, ships, and machines, as well as the marketing of all these products;

* Reproduced above in section V B.

"c. The acquisition, erection, and operation of new plants and the conclusion of all kinds of transactions which further the purpose named under a and b;

"d. The operation of other enterprises and the undertaking of all kinds of business which are considered as being in the interest of the corporation.

"Article 3

"The corporation is authorized to found branch establishments and take part in other enterprises."

The Gusstahlfabrik at Essen was the most important enterprise in the higher concern. It operated open hearth and electric steel furnaces, armor plate mills, large forge and press shops, iron and steel foundries, plate and spring shops, and many machine shops. It produced semifinished and finished iron and steel products, armaments, including armor plate, guns, tank hulls, tank turrets, shells, and parts for fortifications. The Fried. Krupp Grusonwerk A.G. was located in the interior of Germany; made finished guns, tanks, and shells. The Germaniawerft, a shipyard located at Kiel Harbor, designed and built ships of many types including submarines. The stock of both the Grusonwerk and Germaniawerft was completely held by the Fried. Krupp A.G. and its successor Fried. Krupp, except for a few shares owned by Bertha Krupp.

In practice the control of the whole Krupp concern was vested in the Vorstand of Fried. Krupp, A.G. The Aufsichtsrat of Fried. Krupp, A.G. appears to have had the power to review the activities of the Vorstand. However, it met only once a year, and its functions were purely formal.

Gustav Krupp, because of his wife's ownership of practically all of the stock of Fried. Krupp, A.G., and his position as chairman of the Aufsichtsrat, had a very great influence over the company. On 8 March 1941, Gustav Krupp as chairman of the Aufsichtsrat of Fried. Krupp A.G. issued a directive. It referred to the Direktorium as consisting of Goerens, and the defendants Loeser and Krupp, and to six deputy members, including the defendants Pfirsch, Janssen, Houdremont, Korschan, Erich Mueller, and in addition one Fritz Mueller. It also stated that Goerens and the defendants Loeser and Krupp formed the select Vorstand. It stated that next to the chairman of the Aufsichtsrat (*NIK–10497, Pros. Ex. 38*), "the select Vorstand is in charge of the management of the Fried. Krupp Aktiengesellschaft as well as of the Krupp concern. Its decisions are binding for the other Direktorium members and the Vorstaende of the companies of the concern. It also handled the business distribution."

The directive also provided that the select Vorstand had the leadership of the plant, and that the decisions for the select Vorstand in technical affairs "are made by Mr. Goerens, in commercial and administrative affairs by Mr. Loeser, and in matters pertaining to mining and armament by Mr. A. von Bohlen und Halbach. These persons must keep in close contact with each other and must confer and agree especially on matters which their respective spheres of activities have in common or which are of general or special importance.

"If the necessary close cooperation is maintained the select Vorstand should succeed in coming to a general agreement. Should there be differences of opinion nevertheless, each member of the select Vorstand is entitled to call for the decision of the chairman of the Aufsichtsrat.

"According to the work distribution carried out by the select Vorstand the following Dezernenten are responsible for the spheres of activity assigned to them: the deputy members of the Direktorium and, in as far as they are immediately subordinated to the Direktorium, the directors, department and workshop directors of the Fried. Krupp Aktiengesellschaft as well as the directors of the plants of the concern.

"In this sense the plants which have been conducted in the form of an independent body corporate as well as those which are merely considered departments of the Fried. Krupp Aktiengesellschaft are considered plants of the concern. The select Vorstand decides which plants belong to these groups.

"The management of these plants which are conducted as mere departments of the Fried. Krupp sign for their spheres, as the following example shows: Friedrich-Alfred-Huette der Fried. Krupp A.G. Die Direktion (The Management).

"The Dezernenten must manage their spheres of work in such a way as to take full responsibility for the results achieved by their departments. As heads of the spheres of activity assigned to them they must always bear in mind, that they are not conducting an individual business or plant, but part of a whole on the rise and fall of which also their own work depends. For this reason they must observe a collegiate and mutual basis of cooperation and information with these plants and departments with whom they share common interests in their respective spheres of activity. They must inform the select Vorstand briefly and comprehensively about the progress of work in their field, about new plans and important decisions before they are made final.

"Through the business distribution the select Vorstand appoints the Dezernenten who apart from their immediate sphere

of activities will assist the select Vorstand in its capacity as management of the concern. These Dezernenten must keep in contact with the directors of the concern plants and work together with them on a collegiate basis inasmuch as the unification of the concern requires. The directors of the concern plants are under the same obligation. In the case of differences of opinion between the directors of the concern plants and the Dezernenten, these must jointly be submitted to the select Vorstand for decision.

"Legal advisers to the firm and to the concern are at the present moment the gentlemen Ballas and Joeden. They have been entrusted, in collegiate collaboration with the Dezernenten * * *, to give legal advice.

"In order to make legal counsel effective the Dezernenten are not only bound to submit to the legal advisers all legal questions which have arisen, contracts to be drawn up etc., in good time, but also to keep in touch with the legal advisers to keep the latter informed about the various spheres of activities.

"Whatever has been said of the legal department under IV applies to the patent department accordingly."

The law on joint stock corporations and Joint Stock Corporations En Commandite, known as the Joint Stock Law became effective in Germany on 30 January 1937. A commentary on this law was written by Dr. Franz Schlegelberger, Staatssekretaer; Leo Quassowski, Ministerialdirektor; Gustav Herbig, Amtsgerichtsrat; Ernst Gessler, Landgerichtsrat; and Wolfgang Hofermehl, Landgerichtsrat. They were all in the Reich Ministry of Justice.

The Tribunal has taken judicial notice of this commentary. In it, it is said that the "Vorstand, with care of an honest and conscientious business manager * * * is to further the corporation to the best of his ability and to attend to the protection of its interests.

"If the Vorstand consists of one person, he alone is the leader of the enterprise, if the Vorstand consists of several persons, then, in the case of full representation (Gesamtvertretung) the several members together, in the case of single representation, every individual member is to be regarded as leader of the enterprise.

"Beyond this the Vorstand has * * * generally the duty, to use its influence to secure * * * a just pay policy of the corporation and to create healthy working conditions."

The words "Vorstand" and "Direktorium" were used interchangeably in documents in evidence. Both terms refer to the small group of men in the Krupp concern in whom management was centralized. "Direktorium" is the name given to that body after the reorganization in December 1943. There was, in fact, no difference in responsibility and activities within the concern.

In December 1943, pursuant to the provisions of the "Lex Krupp" as stated above, the Fried. Krupp Aktiengesellschaft was converted into the individually owned firm of Fried. Krupp with headquarters in Essen. On the same date 15 December 1943 simultaneously and on establishment of articles of incorporation of the Fried. Krupp, the firm was vested in the sole ownership of the defendant Alfried Krupp von Bohlen und Halbach. Upon registration in the commercial recording office the family enterprise had the name Fried. Krupp, and the branch enterprise Fried. Krupp, Aktiengesellschaft, Friedrich-Alfred-Huette and Krupp-Stahlbau, Fried. Krupp, Aktiengesellschaft thereafter had the trade names of Fried. Krupp, Friedrich-Alfred-Huette and Fried. Krupp, Stahlbau. Thereafter, the defendant Krupp had the name of Alfried Krupp von Bohlen und Halbach, whereas heretofore, his name had been Alfried von Bohlen und Halbach. After the conversion in December 1943 the owner of the family enterprise, Alfried Krupp von Bohlen und Halbach, had the full responsibility and direction of the entire enterprise. To assist him he appointed a business management with the name, "Das Direktorium." The regular and deputy members of the former Vorstand, with the exception of the defendant Loeser, who had resigned, continued to be the regular and deputy members of the Direktorium. Thereafter, they had authority to sign for the firm in place of the owner, and without mention of "Prokura."

The authority to sign for the individually owned firm by the others who were formerly the authorized agents of the Fried. Krupp Aktiengesellschaft was confirmed. No change was made with regard to the subsidiary companies which were continued to be managed as independent legal entities.

Control and management of the subsidiary companies was maintained in a number of ways. At least one member of the Vorstand was on the Aufsichtsrat of each of the principal subsidiary companies. The defendants Krupp, Loeser, and Janssen were members of the Aufsichtsrat at the Germaniawerft and the Grusonwerk, during various periods. The members of the Vorstand of the principal subsidiaries were required to and did submit regular reports of their activities to the parent company at Essen. Financial questions of consequence were decided by the Vorstand

of the parent company, including all capital investments in excess of 5,000 Reichsmarks.

The defendant Loeser entered the Krupp firm on 1 October 1937 as a member of the Vorstand. The defendant Krupp became a member of the Vorstand in 1938. The third member was Paul Goerens. In April 1943 the Vorstand was enlarged, and the defendants Erich Mueller, Houdremont, and Janssen also became members, as did one Fritz Mueller. Before that, these four had all been deputy directors, and then deputy Vorstand members. In 1937 the defendant Janssen became deputy director. In 1938 the defendants Eberhardt, Houdremont, Korschan, Ihn, and Erich Mueller became deputy directors. In 1941 Pfirsch who had been a deputy director since 1923 and the defendants Janssen, Korschan, and Mueller were made deputy Vorstand members. In 1943 the defendants Eberhardt and Ihn were made deputy Vorstand members. As previously stated, the regular and deputy members of the Vorstand with the exception of Loeser were made regular and deputy members of the Direktorium when Fried. Krupp A.G. became the private firm Fried. Krupp in 1943.

Until 1943 various phases of activities were divided among the three members of the Vorstand. One field was finance and administration which had been under the direction of the defendant Loeser, and was under the direction of the defendant Janssen after Loeser resigned. Production in the plants was under Goerens, and the design, sale, and development of war material had been under the direction of the defendant Alfried Krupp.

Although each member had his own sphere of activity, the management of the enterprise depended upon the coordinated efforts of the members. This has already been stated, as it was required by the charter of Fried. Krupp, A.G. The coordination of three departments was required on major enterprises.

When the Vorstand was enlarged in April 1943 Alfried Krupp became chairman of the Vorstand, and Goerens became deputy chairman. Houdremont was then put in charge of metallurgy and steel plants, and also in charge of machine plants after November 1943. From April 1943 on, Janssen was in charge of trade, finance, and administration. All of the foregoing were members of the enlarged Vorstand. These defendants continued in these activities when the Vorstand members became Direktorium members in December 1943 at the time Fried. Krupp A.G. became a private firm. The department directors were referred to as "Dezernenten." They had full responsibility for the results achieved by their departments, and apart from their immediate sphere of work, assisted the Vorstand in its capacity as manage-

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ment of the concern. An order issued by the Vorstand, dated 31 January 1942, provided in part as follows:

> "The work of the Dezernenten with the plants outside the Gusstahlfabrik will generally be restricted to questions of a basic nature and decisions of considerable importance * * *. It is the plant manager's duty to get in touch with the respective Dezernenten when necessary, while on the other hand, the Dezernenten have to instruct the plant manager accordingly."

The defendants Houdremont, Mueller, Janssen, Pfirsch, Ihn, Eberhardt, and Korschan were all within this class at one time or another. The defendant von Buelow achieved a status which for all practicable purposes was the same as that of a department director.

Judge Wilkins will continue the reading.

COUNT TWO—PLUNDER AND SPOLIATION

JUDGE WILKINS: All of the defendants except the defendants Lehmann and Kupke are charged with war crimes and crimes against humanity under count two of the indictment. They are accused of having exploited, as principals or as accessories in consequence of a deliberate design and policy, territories occupied by German armed forces in a ruthless way, far beyond the needs of the army of occupation and in disregard of the needs of the local economy.

These acts are alleged to have taken place in France, Belgium, and the Netherlands, Austria, Yugoslavia, Greece, and the Soviet Union; to have been committed unlawfully, willfully, and knowingly; and to constitute violations of the laws and customs of war, of international treaties and conventions, including Articles 46–56 inclusive of the Hague Regulations of 1907, of the general principles of criminal law as derived from the criminal laws of all civilized nations, of the internal penal laws of the countries in which such crimes were committed, and of Article II of Control Council Law No. 10.

The pertinent portions of Articles 46–56 of the Hague Regulations* are—"Private property * * * must be respected" and "* * * cannot be confiscated" (Article 46); "Pillage is formally forbidden" (Article 47); an occupying army may make requisi-

* Annex to Hague Convention IV, 18 October 1907 (36 Stat. 2277; Treaty Series No. 539; Malloy Treaties, Vol. II, p. 2269), United States Army Technical Manual 27-251, Treaties Governing Land Warfare (United States Government Printing Office, Washington, 1944), Articles 46–56, pp. 31–35.

tions in kind only "for the needs of the army of occupation" and "They shall be in proportion to the resources of the country, and of such a nature as not to involve the inhabitants in the obligation of taking part in military operations against their own country" (Article 52). Article 53 provides in part—"An army of occupation can only take possession of cash, funds, and realizable securities which are strictly the property of the State, depots of arms, means of transport, stores and supplies, and, generally, all movable property belonging to the State which may be used for military operations." Article 55 reads: "The occupying State shall be regarded only as administrator and usufructuary of public buildings, real estate, forests, and agricultural estates belonging to the hostile State, and situated in the occupied country. It must safeguard the capital of these properties, and administer them in accordance with the rules of usufruct."

In its judgment, the International Military Tribunal made the following comment:[1]

> "These articles * * * make it clear that under the rules of war, the economy of an occupied country can only be required to bear the expense of the occupation, and these should not be greater than the economy of the country can reasonably be expected to bear."

We quote further from the IMT judgment:[2]

> "The evidence in this case has established, however, that the territories occupied by Germany were exploited for the German war effort in the most ruthless way, without consideration of the local economy, and in consequence of a deliberate design and policy. There was in truth a systematic 'plunder of public or private property,' which was criminal under Article 6 (b) of the Charter.
>
> * * * * * * *
>
> "The methods employed to exploit the resources of the occupied territories to the full varied from country to country. In some of the occupied countries in the East and West, this exploitation was carried out within the framework of the existing economic structure. The local industries were put under German supervision, and the distribution of war materials was rigidly controlled. The industries thought to be of value to the German war effort were compelled to continue, and most of the rest were

[1] Trial of the Major War Criminals, *op.cit.supra*, volume I, page 239.
[2] Ibid., p. 239.

closed altogether. Raw materials and the finished products alike were confiscated for the needs of the German industry."

In the general summary, the IMT found:[1]

> "* * * war crimes were committed on a vast scale, never before seen in the history of war. They were perpetrated in all the countries occupied by Germany * * *."

It has been urged by the defense that the provisions of the Hague Convention No. IV, and of the regulations annexed to it, do not apply in "total war."

This doctrine must be emphatically rejected. This Tribunal fully concurs with the judgment of the IMT that the Hague Convention No. IV of 1907 to which Germany was a party had, by 1939, become customary law and was, therefore, binding on Germany not only as treaty law but also as customary law.

With further reference to the contention that total war would authorize a belligerent to disregard the laws and customs of warfare, the IMT stated—and this Tribunal again fully concurs:[2]

> "There can be no doubt that the majority of them [war crimes] arose from the Nazi conception of 'total war'; with which the aggressive wars were waged. For in this conception of 'total war,' the moral ideas underlying the conventions which seek to make war more humane are no longer regarded as having force or validity. Everything is made subordinate to the overmastering dictates of war. Rules, regulations, assurances and treaties, all alike, are of no moment; and so, freed from the restraining influences of international law, the aggressive war is conducted by the Nazi leaders in the most barbaric way."

With particular reference to Articles 45, 50, 52, and 56 of the Hague Regulations, the IMT states:

> "* * * that violations of these provisions constituted crimes for which the guilty individuals were punishable is too well settled to admit of argument * * *."

It must also be pointed out that in the preamble to the Hague Convention No. IV, it is made abundantly clear that in cases not included in the Regulations, the inhabitants and the belligerents remain under the protection and the rule of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity, and dictates of the public conscience.

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[1] Ibid., p. 226.
[2] Ibid., p. 227.

As the records of the Hague Peace Conference of 1899 which enacted the Hague Regulations show, great emphasis was placed by the participants on the protection of invaded territories and the preamble just cited, also known as "Mertens Clause," was inserted at the request of the Belgian delegate, Mertens, who was, as were others, not satisfied with the protection specifically guaranteed to belligerently occupied territory. Hence, not only the wording (which specifically mentions the "inhabitants" before it mentions the "belligerents") but also the discussions which took place at the time make it clear that it refers specifically to *belligerently occupied country.* The preamble is much more than a pious declaration. It is a general clause, making the usages established among civilized nations, the laws of humanity, and the dictates of public conscience into the legal yardstick to be applied if and when the specific provisions of the Convention and the Regulations annexed to it do not cover specific cases occurring in warfare, or concomitant to warfare.

However, it will hardly be necessary to refer to these more general rules. The Articles of the Hague Regulations, quoted above, are clear and unequivocal. Their essence is—if, as a result of war action, a belligerent occupies a territory of the adversary, he does *not,* thereby, acquire the right to dispose of property in that territory, except according to the strict rules laid down in the Regulations. The economy of the belligerently occupied territory is to be kept intact, except for the carefully defined permissions given to the occupying authority—permissions which all refer to the army of occupation. Just as the inhabitants of the occupied territory must not be forced to help the enemy in waging the war against their own country or their own country's allies, so must the economic assets of the occupied territory not be used in such a manner.

It is a matter of historic record that Germany violated these rules even during the First World War; and though she did it at that time on an immeasurably smaller scale than during the Second World War, her practices were generally condemned—condemned by the experts of international law, condemned in the peace treaties (in which Germany promised indemnification for those illegal acts) and condemned by right thinking Germans themselves. For example, in the sixth revised edition of International Law by Oppenheim, revised and edited by Lauterpacht (1944) it is stated:

"The rules regarding movable private property in enemy territory were systematically violated by the central powers during the World War * * *. Factories and workshops were dismantled and their machinery and materials carried away * * *. These are

but examples of the wholesale seizure of private property practiced by Germany and her allies in the countries which they occupied."

About immovable private enemy property, the same leading textbook writer states:

"Immovable private enemy property may under no circumstances or conditions be appropriated by an invading belligerent. Should he confiscate and sell private land or buildings the buyer would acquire no rights whatsoever to the property. Article 46 of the Hague Convention expressly enacts that 'private property' may not be confiscated, but confiscation differs from the temporary use of private land and buildings for all kinds of purposes demanded by the necessities of war.

"Private personal property which does not consist of war material or means of transport serviceable for military operations may not, as a rule, be seized. Article 46 and 47 of the Hague Regulations expressly stipulate that 'private property may not be confiscated' and 'pillage is formally prohibited'. But it must be emphasized that these rules have, in a sense, exceptions demanded and justified by the necessities of war. Men and horses must be fed; men must protect themselves against the weather. If there is no time for ordinary requisitions to provide food, forage, clothing, and fuel, or the inhabitants of a locality have fled, so that ordinary requisitions cannot be made, a belligerent must take these articles wherever he can get them, and he is justified in so doing. Moreover, quartering of soldiers (who, together with their horses, must be well fed by the inhabitants of the houses where they are quartered) is likewise lawful, although it may be ruinous to the private individuals upon whom they are quartered."

Spoliation of private property, then, is forbidden under two aspects: firstly, the individual private owner of property must not be deprived of it; secondly, the economic substance of the belligerently occupied territory must not be taken over by the occupant or put to the service of his war effort—always with the proviso that there are exemptions from this rule which are strictly limited to the needs of the army of occupation insofar as such needs do not exceed the economic strength of the occupied territory.

Article 43 of the Hague Regulations is as follows:*

> "The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while *respecting,* unless absolutely prevented, the *laws in force in the country.*" [Emphasis added.]

* Annex to Hague Convention IV, *op.cit.supra,* Article 43, page 31.

This Article permits the occupying power to expropriate either public or private property in order to preserve and maintain public order and safety. However, the Article places limitations upon the activities of the occupant. This restriction is found in the clause which requires the occupant to respect, unless absolutely prevented, the laws in force in the occupied country. This provision reflects one of the basic standards of the Hague Regulations, that the personal and private rights of persons in the occupied territory shall not be interfered with except as justified by emergency conditions. The occupying power is forbidden from imposing any new concept of law upon the occupied territory unless such provision is justified by the requirements of public order and safety. An enactment by the German occupation authorities imposing Nazi racial theories can not be justified by the necessities of public order and safety.

In case 3,* Tribunal III, citing as authority the Preamble to the Hague Convention and Articles 23 (h), 43, and 46 of the Hague Regulations, stated:

> "The extension to and application in these territories of the discriminatory law against Poles and Jews was in furtherance of the avowed purpose of racial persecution and extermination. In the passing and enforcement of that law the occupying power in our opinion violated the provisions of the Hague Convention."

When discriminatory laws are passed which affect the property rights of private individuals, subsequent transactions based on those laws and involving such property will in themselves constitute violations of Article 46 of the Hague Regulations.

Beyond the strictly circumscribed exceptions, the invader must not utilize the economy of the invaded territory for his own needs within the territory occupied. We quote Garner's International Law and the World War, [New York, 1920], Volume II, pages 124–126, as follows:

> "Article 52 of the Hague Convention respecting the laws and customs of war expressly forbids requisitions in kind except 'for the needs of the army of occupation.'
>
> "It was clearly not the intention of the conference to authorize the taking away by a military occupant of live stock for the maintenance of his own industries at home or for the support of the civil population of his country. By no process of reasoning can requisitions for such purposes be construed to be for the 'needs of the army of occupation.'
>
> "A similar charge against the Germans was that of commit-

* United States *vs.* Josef Altstoetter, et al., Case 3, "Justice Case," Volume III.

ting spoliations upon Belgian manufacturing industries by dismantling factories and workshops and carrying away their machinery and tools to Germany.

"The Belgian Government addressed a protest to the governments of neutral countries against these acts as being contrary to Article 53 of the Hague Convention respecting the laws and customs of war, which, although it allows, subject to restoration and indemnity for its use, the seizure of war material belonging to private persons, does not authorize the seizure and exportation by the occupying belligerent of machinery and implements used in the industrial arts. The industrial establishments of northern France were similarly despoiled of their machinery, much of it being systematically destroyed.

"What was said above in regard to the illegality of the requisition of live stock and its transportation to Germany for the benefit of German industry and for the support of the civil population at home, must be said of the seizure and transportation for similar purposes of the machinery and equipment of Belgian and French factories and other manufacturing establishments. The materials thus taken were not for the needs of the army of occupation, and the carrying of them away was nothing more than pillage and spoliation under the disguise of requisitions."

In a footnote on page 126 of the same volume, we find the following pertinent comment:

"The authorities are all in agreement that the right of requisition as recognized by the Hague Convention is understood to embrace only such supplies as are needed by the army within the territory occupied and does not include the spoliation of the country and the transportation to the occupant's own country of raw materials and machinery for use in his home industries * * *. The Germans contended that the spoliation of Belgian and French industrial establishments and the transportation of their machinery to Germany was a lawful act of war under Article 23 (g) of the Hague Convention which allows a military occupant to appropriate enemy private property whenever it is 'imperatively demanded by the necessities of war.' In consequence of the Anglo-French blockade which threatened the very existence of Germany it was a military necessity that she should draw in part on the supply of raw materials and machinery available in occupied territory. But it is quite clear from the language and context of Article 23 (g) as well as the discussions on it in the Conference that it was never intended to authorize a military occupant to despoil

on an extensive scale the industrial establishments of occupied territory or to transfer their machinery to his home country for use in his home industries. What was intended merely was to authorize the seizure or destruction of private property only in exceptional cases when it was an imperative necessity for the conduct of military operations in the territory under occupation. This view is further strengthened by Article 46 which requires belligerents to respect enemy private property and which forbids confiscation, and by Article 47 which prohibits pillages."

Another erroneous contention put forth by the defense is that the laws and customs of war do not prohibit the seizure and exploitation of property in belligerently occupied territory, as long as no definite transfer of title was accomplished. The Hague Regulations are very clear on this point. Article 46 stipulates that "private property * * * must be respected." However, if, for example, a factory is being taken over in a manner which prevents the rightful owner from using it and deprives him from lawfully exercising his prerogative as owner, it cannot be said that his property "is respected" as it must be under Article 46.

The general rule contained in Article 46 is further developed in Articles 52 and 53. Article 52 speaks of the "requisitions in kind and services" which may be demanded from municipalities or inhabitants, and it provides that such requisitions and services "shall not be demanded except * * * for the needs of the army of occupation." As all authorities are agreed, the requisitions and services which are here contemplated and which alone are permissible, must refer to the needs of the army of occupation. It has never been contended that the Krupp firm belonged to the army of occupation. For this reason alone, the "requisitions in kind" by or on behalf of the Krupp firm were illegal. All authorities are again in agreement that the requisitions in kind and services referred to in Article 52, concern such matters as billets for the occupying troops and the occupation authorities, garages for their vehicles, stables for their horses, urgently needed equipment and supplies for the proper functioning of the occupation authorities, food for the army of occupation, and the like.

The situation which Article 52 has in mind is clearly described by the second paragraph of Article 52: *

> "Such requisitions and services shall only be demanded on the authority of the commander in the locality occupied."

The concept relied upon by the defendants—namely: that an aggressor may first over-run enemy territory, and then afterwards

* Annex to Hague Convention IV, *op.cit.supra*, page 33.

industrial firms from within the aggressor's country may swoop over the occupied territory and utilize property there—is utterly alien to the laws and customs of warfare as laid down in the Hague Regulations, and is clearly declared illegal by them because the Hague Regulations repeatedly and unequivocally point out that requisitions may be made only for the needs of, and on the authority of, the army of occupation.

There is one important exception, contained in Article 53:*

> "All appliances, whether on land, at sea, or in the air, adapted for the transmission of news, or for the transport of persons or things, exclusive of cases governed by naval law, depots of arms, and generally, all kinds of ammunition of war, may be seized, even if they belong to private individuals, but must be restored and compensation fixed when peace is made."

The offense of spoliation is committed even if no definite alleged transfer of title was accomplished. The reason why the Hague Regulations do not permit the exploitation of economic assets (except to the limited extent outlined) for the war effort of the occupant, are clear and compelling. If an economic asset which, under the rules of warfare, is not subject to requisition, is nevertheless exploited during the period of hostilities for the benefit of the enemy, the very things result which the law wants to prevent, namely—

a. the owners and the economy as a whole as well as the population are deprived of the respective assets;

b. the war effort of the enemy is unfairly and illegally strengthened;

c. the products derived from the spoliation of the respective asset are being used, directly or indirectly, to inflict losses and damages to the peoples and property of the remaining (non-occupied) territory of the respective belligerent, or to the peoples and property of its allies.

The defendants cannot as a legal proposition successfully contend that, since the acts of spoliation of which they are charged were authorized and actively supported by certain German governmental and military agencies or persons, they escape liability for such acts. It is a general principle of criminal law that encouragement and support received from other wrongdoers is not excusable. It is still necessary to stress this point as it is essential to point out that acts forbidden by the laws and customs of warfare cannot become permissible through the use of complicated legal constructions. The defendants are charged with plunder on a large scale. Many of the acts of plunder were com-

* Ibid., pp. 33 and 34.

mitted in a most manifest and direct way, namely, through physical removal of machines and materials. Other acts were committed through changes of corporate property, contractual transfer of property rights, and the like. It is the results that count, and though the results in the latter case were achieved through "contracts" imposed upon others, the illegal results, namely, the deprivation of property, was achieved just as though materials had been physically shipped to Germany.

Finally, the defense has argued that the acts complained of were justified by the great emergency in which the German war economy found itself. With reference to this argument it must be said at the outset that a defendant has, of course, the right to avail himself of contradictory defense arguments. This Tribunal has the duty carefully to consider all of them; but the Tribunal cannot help observing that the defense, by putting forth such contradictory arguments, weakens its entire argument. The "emergency argument" implies clearly the admission that, in and of themselves, the acts of spoliation charged to the defendants were *illegal,* and were only made legal by the "emergency." This argument is bound to weaken the other argument of the defense, according to which the acts charged to them were legal, anyway.

However, quite apart from this consideration, the contention that the rules and customs of warfare can be violated if either party is hard pressed in war must be rejected on other grounds. War is by definition a risky and hazardous business. That is one of the reasons that the outcome of a war, once started, is unforeseeable and that, therefore, war is a basically unrational means of "settling" conflicts—why right thinking people all over the world repudiate and abhor aggressive war. It is an essence of war that one or the other side must lose, and the experienced generals and statesmen knew this when they drafted the rules and customs of land warfare. In short these rules and customs of warfare are designed specifically for all phases of war. They comprise the law for such emergency. To claim that they can be wantonly—and at the sole discretion of anyone belligerent—disregarded when he considers his own situation to be critical, means nothing more or less than to abrogate the laws and customs of war entirely.

We shall now discuss in appropriate sequence the proven facts relating to the alleged specific acts of spoliation as they appear from the credible evidence presented before us.

On 18 May 1940 the defendant Alfried Krupp and three other industrialists were gathered around a table intently studying a map while listening to a broadcast of German war news over the radio. The four men learned of the great advances of the German

Wehrmacht through Belgium and evidently concluded from what they heard that the situation in Holland had been so consolidated that there was a possibility that outstanding members of the economy now would be able to go there.

At the conclusion of the broadcast the four men talked excitedly and with great intensity. They pointed their fingers to certain places on the map indicating villages and factories. One said, "This one is yours, that one is yours, that one we will have arrested, he has two factories." They resembled, as the witness Ruemann put it, "vultures gathered around their booty." One of the men (Lipps) telephoned his office to contact the competent military authority to obtain passports to Holland for two of them for the following day.

We are satisfied that this incident occurred as portrayed by the witness Ruemann and that it clearly indicates the attitude of the defendant Alfried Krupp during the period of Germany's aggressions here under contemplation, as judged by this incident and his subsequent actions in the invaded territories which we shall hereinafter discuss at length.

THE AUSTIN PLANT AT LIANCOURT, FRANCE

The Austin factory located at Liancourt, France was founded in 1919. In 1939 the firm was purchased by Robert Rothschild who was a citizen of Yugoslavia and of Jewish extraction. The business of the firm was the production of agricultural tractors. Only during the months of May and June 1940 upon special instructions from the French army headquarters during the German offensive against France, Belgium, and Holland, did the Austin factory devote about 90 percent of its production to war materials and 10 percent to the production of agricultural tractors for civilian consumption. A department was set up for the manufacture of war materials separate and apart from Austin's regular peacetime industry. The machines were loaned to Austin by the French Government which also furnished the machine tools, raw materials, and workmen.

The owner, Robert Rothschild, was forced to flee from Liancourt with the general exodus upon the advance of the German Army. He went to live south of Lyon in the Department of Dauphine and because of his Jewish extraction he was unable to return to German occupied France so he sent his non-Jewish brother-in-law, Milos Celap, to take charge of the plant. The machines owned by the French Government were sequestered by

the German Army. The Austin plant immediately upon the occupation in June 1940 was taken over by the German Army. The German commander refused to turn over the plant to Celap because it was Jewish owned, but upon the German commander's advice Rothschild assigned his stock to Celap, whereupon the property was released to Celap on 19 October 1940. Celap remained in charge of the property until 28 December 1940 at which time he was dismissed under the provisions of the anti-Jewish decree issued by the chief of German military government for France on 18 October 1940.

This decree required the registration of Jewish enterprises and authorized the appointment of administrators for such properties. The decree further provided that any transfer of title to Jewish property after 23 May 1940 could be declared void by the military governor. After Celap's dismissal, a provisional administrator was appointed to operate the plant. The owner Rothschild, who remained in the unoccupied zone, opposed the appointment of the administrators and at all times took the position that such appointments were illegal.

In June 1942 an offer was made by the Krupp firm to Maurice Erhard, administrator of the property, for the purchase of the Austin plant for five million francs. Ten other companies, both French and German, were interested at the time in securing the property. Within a month after the offer was made by the Krupp firm, a subordinate in the office of the defendant Loeser reported that Erhard had been delaying negotiations. As a result thereof the German military authorities, after consulting with the Krupp firm, directed Erhard to give the Krupp firm a 3-year lease if he could not make up his mind to sell the property, and that failure on the part of Erhard to make the lease would result in his dismissal as administrator.

On 1 August 1942 Stein wrote from Paris (*NIK–13002, Pros. Ex. 686*) :*

> "Furthermore he declared that Mr. Erhard had also submitted other purchase offers after we had submitted our offer. It is therefore clearly and unmistakably proved that Mr. Erhard was trying to deceive us.
>
> "Thus, the road is open to start direct and final negotiations concerning the rent. Later, after it has been leased, one could work out quietly all the remaining details concerning the purchase."

Defendant Loeser's subordinate recommended that the lease should be signed purely as an opening wedge for the later acqui-

* Reproduced above in section VII D 2.

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sition of the plant through a Krupp-owned French corporation.

At the time the lease was signed, the Krupp firm purchased all but thirty of the machines at a ridiculously low price according to Celap. The price for the stock of materials was to be fixed after inventory. Under the provisions of the sales contract the Krupp firm agreed to furnish spare parts and maintain repairs on the Austin agricultural tractors then in circulation.

The lease agreement was signed by Maurice Erhard as provisional administrator pursuant to the German decree for the sequestration of Jewish properties for a 3-year period, with right of renewal for an additional 3 years. The Krupp firm was authorized to make extensions, improvements, and modifications, and to install new machinery.

The machines of the assembly-line type for agricultural tractor production were sold or sent to other factories to be rebuilt for the Krupp firm production. Considerable machinery which was obtained in other parts of France was installed in the factory by the Krupp firm.

After the Krupp firm took possession of the Austin factory they manufactured parts for other Krupp factories in France and in Germany. These were used for war purposes. Only about 2.1 percent to 2.2 percent of the production was devoted to the manufacture of spare parts for agricultural tractors called for in the lease.

The Krupp firm continued its efforts to acquire the plant by purchase and it may be concluded that only the change in the military situation prevented the Krupp firm from finally obtaining title to the property.

The two men most active in the attempt to acquire the plant by purchase were Krupp employees named Stein and Schmidt who were representatives of the firm in France and received instructions from the Krupp firm at Essen.

In fact, in view of the acquisition of additional properties in France by the Krupp firm the defendants Krupp and Loeser discussed the advisability of establishing a French firm to supervise the various Krupp interests in France. Following subsequent discussions between Schroeder, defendant Loeser's chief subordinate, with defendant Krupp and later with defendant Eberhardt, a joint stock company known as "Krupp Société Anonyme Française" was formed. It had a capital stock authorization of 20,000 shares valued at 1,000 francs per share, 14,000 of which were held by Krupp Essen. The plan was to have this "French company" buy up the Austin plant at Liancourt.

Moreover, the Krupp firm selected a valuable property located in the heart of Paris: 141 Boulevard Haussmann, which was to

become its central office in France. This was to be accomplished by profiting again from the continental wide anti-Jewish policy of the Nazi regime. The property was owned by Société Bacri Frères, a Jewish firm, and had been sequestered by the commissioner for Jewish affairs. The Krupp firm's representative in Paris, Walter Stein, acting as attorney-in-fact for Krupp Essen, obtained a lease of the property with right to purchase it within 6 months after the date of the lease 1 January 1943 for 2,500,000 francs—not from the rightful owners of the premises but from the provisional administrator of the Société Bacri Frères by virtue of a decision of a commissariat for Jewish questions. This example of the Krupp firm's exploitation of the Nazi anti-Jewish policy is most objectionable because there was nothing to prevent the firm from honestly leasing or buying a building from a non-Jewish owner in Paris. The records show that on 16 September 1942 defendants Krupp and Loeser approved a loan in the sum of 1,250,000 RM for the establishment of, and loan to, Krupp S.A., Paris.

The correspondence between the Krupp firm and the Paris office shows the avidity of the firm to acquire the Austin factory and the Paris property. Stein, under instructions from Schroeder and defendant Eberhardt, had numerous conferences with German and French officials in an effort to effect the purchases. The French Finance Ministry delayed by raising objections and eventually the change in the military situation prevented the realization of those plans.

In a letter from Schroeder to Krupp employee, Stein, regarding the Paris property, he stated, in part:

> "* * * I myself welcome the acquisition, and I can tell you, that Dr. Loeser also approves of it on principle, provided that Dr. Beusch likewise favors the acquisition * * *."

When the strenuous efforts to purchase the property did not materialize and difficulties arose between Erhard and the Krupp firm, Erhard through the Krupp firm's influence was dismissed as the provisional administrator and was succeeded in that position by Richard Sandre who was a friend of Krupp employee, Schmidt, mentioned above.

About 6 February 1944 Sandre, the new administrator, called upon Rothschild, the owner, to obtain financial information in order to assess the valuation of the shares of stock of the company. Rothschild had taken along with him all the books of the company containing all the accounting data. Sandre said there was a buyer for the shares and Rothschild knew that the Krupp firm was to be the buyer and that they were already in possession of the property by lease and that they had bought the machines.

Rothschild refused to give the information and was threatened several times. He was told by Sandre: "If you don't want to give me that information, well, you can just imagine what will happen to you." Rothschild still refused.

On 21 February 1944 Rothschild was arrested and on 7 March was taken to Auschwitz from which concentration camp he has never returned. He sent a note through a friend to Celap, his brother-in-law, while being held in a transit camp in France* that he had exact information to the effect that the whole affair had been arranged by Sandre and Damour (Damour was the lawyer for the commissioner for Jewish properties at Lyon).

The Krupp workers evacuated the plant just a few days before the entry of the American troops. Eighteen machines which they had collected in France were dismantled and taken to Germany. Among these were two of the machines originally obtained from the Austin plant.

The lease and management of the plant, the purchase of the machinery, and the attempts to permanently acquire the property were carried on by the finance department of the Krupp firm which was headed by defendant Loeser until April 1943, thereafter by defendant Janssen. The contract for the purchase of the machinery and the lease for the plan were approved by defendants Krupp and Loeser on behalf of the Vorstand. The programs for production at the plant and decisions relating thereto were made by defendants Krupp, Janssen, and Eberhardt. In November 1943 defendant Alfried Krupp inspected the plant. He was pleased with its operation but suggested the production of Widia tools in order that the plant might be fully utilized. A subordinate in the finance department passed this recommendation on to defendants Janssen and Eberhardt suggesting a meeting at Essen. As a result the installation of Widia tool production at the Austin factory had been started by March 1944.

On 24 May 1941 a circular was issued by the Krupp Direktorium, signed by defendant Loeser, stating that the Krupp firm's interest as to acquiring other plants must be pursued as opportunities occur and that essential information must be communicated without delay to him so that the treatment of the matter can be decided within the small circle of the directorate. On the distribution list were defendants Krupp, Houdremont, Mueller, Janssen, Pfirsch, and Korschan.

We conclude from the credible evidence before us that the confiscation of the Austin plant based upon German inspired anti-Jewish laws and its subsequent detention by the Krupp firm

* This note is reproduced above in section VII D 1 as an enclosure to Document NIK-10590, Prosecution Exhibit 662.

constitute a violation of Article 43 of the Hague Regulations which requires that the laws in force in an occupied country be respected; that it was also a violation of Article 46 of the Hague Regulations which provides that private property must be respected; that the Krupp firm, through defendants Krupp, Loeser, Houdremont, Mueller, Janssen, and Eberhardt, voluntarily and without duress participated in these violations by purchasing and removing the machinery and leasing the property of the Austin plant and in leasing the Paris property; and that there was no justification for such action, either in the interest of public order and safety or the needs of the army of occupation.

THE ELMAG PLANT LOCATED AT MULHOUSE

For more than 125 years a French company known as S.A.C.M. (Alsacian Corporation for Mechanical Construction) had its principal place of business at Mulhouse, Alsace. The company owned eight plants, four of which were located in France, outside of Alsace, but the principal works of the four located in Alsace were at Mulhouse. At the outbreak of the war the principal product of the Mulhouse plant was textile machinery, and a portion of the plant was devoted to the manufacture of combustion engines, machines tools, and machinery for the fuel industry.

Upon the German occupation of Alsace in June 1940, a "Chief of civilian administration" was appointed by the Germans, and German law was introduced. A German administrator was appointed to take charge of the S.A.C.M. properties which we shall refer to hereinafter as ELMAG, an abbreviation of the German translation of the name of the firm, namely, Elsaessische Maschinenfabrik A.G. The reason for this seizure seems to have been that the majority of the stock of the company was owned by Frenchmen, living outside of Alsace. The company was referred to as "an Alsatian enterprise in which enemy interests predominate." The action was protested by the president and those of the directors who had remained with the company after the occupation.

In August 1940 when the German administrator took over the plant, ELMAG still used about one-half of the working hours for producing textile machinery but this figure rapidly decreased later in favor of direct and indirect production for the German armed forces.

As a result of damaging air raids on the Gusstahlfabrik-Essen plant in March 1943 it was decided to move the Krupp Krawa

factory (automotive works) to the ELMAG plant. On 27 March 1943, a meeting for that purpose was held in the Reich Armament Ministry in Berlin, there being present the defendants Janssen and Eberhardt as well as other Krupp officials, representatives of the Armament Ministry, of the German Civil Administration for Alsace, and of ELMAG. Minutes of the meeting were recorded by defendant Eberhardt and distributed to defendants Krupp, Mueller, and Pfirsch.

Strenuous opposition was raised by the administrators for Alsace and the ELMAG representatives to taking over the plants by the Krupp firm, but transfer of the automotive factory from Essen to the ELMAG plant had been decided upon and nothing could be done to alter the decision. The Krupp representatives obtained a statement by the Armament Ministry, to the effect that: "The entire plant at Mulhouse, Masmuenster, and Jungholz will be for the credit and debit of Krupp * * *." It was also determined that "the construction of signals and of machine tools will be abandoned by ELMAG; the construction of textile machinery is to be continued for the time being."

At a conference of Krupp officials in April 1943 attended, among others, by the defendants Krupp, Eberhardt, and Janssen it was decided to set up a new firm to operate the plant under lease from the old ELMAG company. Under the terms of the lease signed for the Krupp firm by defendant Eberhardt the management of the three plants in Mulhouse, Masmuenster, and Jungholz was turned over to the Krupp firm for the duration of the war. The machinery and fixed installations were to remain the property of ELMAG. Raw materials usable by the Krupp firm were to be inventoried and paid for. The Krupp firm was authorized to make such changes and modifications in the plants as were deemed necessary for operation. When the terms of this contract were learned by the administrator of the old ELMAG company he complained to the Armaments Ministry that ELMAG, for which he was speaking as administrator, "considers itself raped by the form of plant management contract chosen by the Krupp, A.G."

The new firm of ELMAG G.m.b.H. which was 90 percent Krupp owned was issued a permit to operate in Alsace, 27 April 1943. The civil administrator of Alsace notified the administrator of ELMAG of the ceding of the plant to the Krupp firm, effective 1 May 1943.

The program of war production initiated by the German administrators was greatly increased when the Krupp firm took over the plant. In addition to this heavy armament program the production of military tractors by Krupp Krawa was added. Extensive preparations were made for the production of 88

[mm.] antiaircraft guns. Productions not strictly in the armament field were geared to the war production requirements of Germany. Definite instructions called for continuous full production of military tractor parts and full utilization of local labor for this purpose. To carry out this task additional machinery was requisitioned by special searching missions.

That the Krupp firm desired ultimately to permanently acquire the ELMAG plant there can be little doubt. In the minutes prepared by the defendant Eberhardt of the Berlin meeting, 27 March 1943, and distributed to defendants Krupp, Mueller, and Janssen, there appears the following comment: "As regards Ministerialrat Sauer's suggestion for Krupp's purchasing ELMAG, this can be handled in negotiations; this must not, however, hold up the relocation." Eberhardt made the following notation of portions of a telephone conversation between himself and the civil administrator for Alsace on 6 April 1943; "I replied in the affirmative to the question whether the new company would come forward as a buyer if the works to be taken over and now in operation, would be sold."

Whatever the ultimate intention of the Krupp firm towards ELMAG might have been, the turn in the fortunes of war forced the Krupp firm to evacuate the ELMAG plants because of the advance of the Allied armies. In view of this situation, the exploitation of the ELMAG plants was substituted by outright physical looting.

The evacuation of the Krawa plant from Alsace was decided by Reich Minister Speer in early September 1944. The plant was hurriedly evacuated and re-established in Bavaria. The program for the acquisition of machinery was greatly accelerated. Machinery which was the property of the ELMAG plant, including machinery which was in the plant when it was seized by the German authorities, and machines acquired from other sources were evacuated along with Krupp's own machinery. Nine machines originally owned by the old S.A.C.M. company were included. The antiaircraft gun plant was moved to the Groeditz plant of Mitteldeutsche Stahlwerke. A total of 100 to 102 machines were shipped to this plant of which 31 were the property of the S.A.C.M. company and 55 the property of ELMAG A.G. In late September the antiaircraft gun plant was moved to central Germany. Special equipment designed at ELMAG was taken as well as regular machinery and tools belonging to the plant prior to the occupation. Additional machines would have been taken at the time of the evacuation except for the necessity of continued war production at ELMAG itself. Even after evacuation of the Krawa plant the production of military tractor parts,

which was given the same priority as the antiaircraft gun program, was turned over to the machine shops remaining in Alsace. The Krupp officials of the ELMAG plant left in such a hurry that they failed to pay 800,000 RM then owing to the workers.

In October 1944 a Krupp employee of ELMAG inspected the Peugeot Works in Sochaux, France and the ALSTHOM plant at Belfort, looking for machinery and equipment that would be usable in Krupp's plants. His report, initialed by defendant Houdremont, is in part as follows (NIK–13000, Pros. Ex. 1350.):

> "Major Wetzke promised me to have this car sequestrated if it would be required by ELMAG. In general the subject of our discussion with Major Wetzke was that we have to come to an immediate decision regarding the machines and the PKW [automobile] afore-mentioned. Information by phone will be sufficient. Major Wetzke may be reached at any time from 8:00 o'clock in the morning to 7:00 o'clock in the evening. The settlement for the confiscated machines will be done over by the Ruestungskommando and by the purchasing office established for this purpose by the Reich. In order to carry out the transportation of the machines I propose the following:
>
> "Senior foreman Luttenauer (father) and 2 workmen, expert in dismantling of machines, leave on Monday, accompanied by me, for Belfort, and Sochaux resp. Lodging for these 3 men will be provided at Belfort. Connection to Sochaux is secured by military transportation facilities."

After the Krupp Krawa plant had been transferred from Mulhouse to Bavaria, the company wrote to ELMAG as follows (NIK–13102, Pros. Ex. 1351.):

> "Your file note of 26 October and that of Mr. Ziebeil of 27 October show that a considerable number of 'Bottleneck' machines (Engpassmaschinen) and above all of tempering equipment was chosen at the Peugeot works and transported to Mulhouse. Above all the tempering equipment which Mr. Ziebeil picked out must be sent here as soon as possible by express freight. You probably know that we have no gas in Kulmbach and that we can only depend on electric power. It would be irresponsible if in the future we should continue to rely only on the help of the High Command of the Army while on the other hand equipment and installations are procured and set up in Mulhouse which are not needed urgently. At your end the entire old ELMAG tempering installation is intact and apart from that there are still three gas furnaces which for the time being can also remain there in the Krawa tempering installation. Please make a special effort to this effect.

"In addition we are lacking for the program 'Bottleneck' machines, such as interior grinding machines, key ways, grinding machines and thread milling machines. As far as these machines are also available at Peugeot please get them for Kulmbach. As Mr. Hubert informs us a number of other installations such as Sicken machines, spot welding machines, rounding off machines, tube bending machines, and above all 12 Demag pulleys were procured. The latter must be sent here on quickest way together with the fuel if possible.

"Further I ask you to please exactly determine and make a list of the screw taps, rapid change chucks, rapid screw heads, rapid screw wedges [Gewindeschnellbacken], hard metal sheets, etc., in short everything necessary for production, as far as it is at all possible to foresee requirements for the production in Kulmbach and Nuernberg and in as much as you need the same for Mulhouse."

Defendants Janssen and Eberhardt attended the conference at Berlin when the decision was made to take over the plant. Janssen was Eberhardt's superior during the greater portion of the period in question, having succeeded Loeser as head of the finance department. Eberhardt was in charge of the negotiations for taking over the plant and signed the contracts. Defendant Krupp participated in the discussions with Janssen and Eberhardt as to methods to be employed to acquire the plant. Defendants Mueller and Pfirsch were advised of these discussions. The correspondence regarding the acquisition was conducted by defendant Krupp and brought to the attention of Eberhardt and Mueller. Defendant Eberhardt participated in the removal of the machinery and the plant to Germany and defendants Krupp, Houdremont, Mueller, and Janssen were kept informed concerning the evacuation of the machinery. Houdremont was informed concerning the acquisition of machines and equipment from other industrial firms in France for ELMAG. Defendant Mueller participated in directing the production progress at ELMAG. The management of the ELMAG plant was responsible to the Krupp Essen Vorstand which prior to April 1943 consisted of defendants Krupp, Loeser, and Goerens; and thereafter of defendants Krupp, Houdremont, Mueller, and Janssen; and Fritz Mueller, now deceased.

From a careful study of the credible evidence we conclude there was no justification under the Hague Regulations for the seizure of the ELMAG property and the removal of the machinery to Germany. This confiscation was based on the assumption of the incorporation of Alsace into the Reich and that property in

Alsace owned by Frenchmen living outside of Alsace could be treated in such a manner as to totally disregard the obligations owed by a belligerent occupant. This attempted incorporation of Alsace into the German Reich was a nullity under international law and consequently this interference with the rights of private property was a violation of Article 46 of the Hague Regulations.

MACHINES TAKEN FROM ALSTHOM FACTORY

The German Naval High Command instituted a new submarine building program in the early part of 1941 which was participated in by a Krupp subsidiary, Krupp Stahlbau in Rheinhausen. The plant manager of the steel and bridge construction department of Stahlbau was sent to France to find bending roll machines of greater dimensions than were available at the Krupp plants in order to fulfill its part in the submarine building program. This Krupp representative, accompanied by a naval officer of the Armament Inspectorate of the Navy High Command, proceeded to the ALSTHOM Plant in Belfort where they located two bending machines suitable for Krupp needs. Immediately they placed a "seized" sign upon the machines. The director of the ALSTHOM firm objected to the confiscation on the ground that the machines were the only ones on which the construction of boiler drums and high pressure tubes was based and that they were essential for this purpose. The machines were heavy machines, one weighing 380 tons and the other about 50 to 60 tons. Neither had been used for military purposes. Moreover, machines of this type, old or new, were not available on the market and could not be produced in less than 18 months at the minimum. Krupp Stahlbau, however, possessed a bending press which they could have used in case of urgent need. Dr. Goerens, now deceased but at that time a member of the Krupp Vorstand, was advised when the procuring of the machine became urgent and he approved of the acquisition after an estimate of the approximate price was given him.

The objections raised to the seizure were of no avail and shortly thereafter the machines were dismantled by Krupp workmen and carried off to Germany. They were installed at the Krupp-Stahlbau plant and were used in the submarine building program until the end of the war.

That the Krupp firm intended to permanently acquire these machines there can be little doubt. Repeated attempts were made by the Krupp firm to obtain title to the machines. It offered to

pay ALSTHOM 108,700 RM for the machines, a price fixed by a German official evaluation which included deductions for repair costs, transportation and installation charges from data furnished by the Krupp firm. When its efforts to purchase the machines failed, the Krupp firm enlisted the aid of the Navy High Command which advised that it could not order ALSTHOM to accept the price offered by the Krupp firm and that the matter could be settled only by negotiation. However the military intendant for France advised ALSTHOM that compensation was a matter for the German Army, that the Krupp firm should not be expected to handle the matter, and that the only basis for settlement was the price already fixed. From that time forward the firm's efforts to obtain title were directed through the military authorities so that the Krupp firm would not appear as a party to the negotiations.

The director of ALSTHOM not only objected to the seizure and removal of the machines but repeatedly demanded that the machines be returned. He testified that a decree or order of the French collaborationist government was to the effect that if the owner of a confiscated machine refused to negotiate with the German authorities, then, after a certain period, the owner lost all claim to indemnification. In consequence of this order the director of ALSTHOM continued to bargain with the Krupp firm and the German authorities as the correspondence reveals; but he pursued delaying tactics which in the end, and only because of the unsuccessful termination of the war for Germany, proved successful.

The Krupp firm was specifically advised of at least some of the illegal aspects of the seizure of these machines. On 21 July 1943 a file memorandum by a Krupp employee stated (*NIK–13450, Pros. Ex. 718*) :*

> "1. According to information given by attorney-at-law Schuermann, the whole confiscation was carried out at the time in contravention to the rules of the Hague Convention for Land Warfare. This in itself, allows only seizure for the purpose of use, but not seizure with the intention of actual transfer of property.
>
> "2. I have asked Mr. Sieber, once more to make representations at the Intendantur, asking them to interpose their authority and to settle the matter, as the sending of files back and forth would not lead to anything. Mr. Sieber is of the same opinion and wanted once more to approach the Intendantur of the military commander in this matter.

* Reproduced above in section VII F 1.

"3. Furthermore, I asked Mr. Borchers to contact Mr. Geneuss, once more for the same purpose and to point out to him that the guarantee by the army agency (Wehrmachtsdienststelle) exists now as before, so that it would be interested in seeing the matter settled as soon as possible."

The attorney Kurt Schuermann was a member of the Krupp legal department and was associated with Dr. Ballas and Dr. Joeden in that department until the end of the war. The legal department was directly subordinate to the Vorstand.

The military commandant in France renewed his efforts to force ALSTHOM to accept the price offered and threatened that unless such offer were accepted, payment by the German Reich would be refused. An increased offer of 190,000 RM was made after this threat failed but it too was refused.

Krupp-Stahlbau wrote to their liaison office in Paris as follows (NIK–13451, Pros. Ex. 719) :*

"The Intendant of the military commander has certain scruples about forcing the French to accept a compensation which would, for German conditions, be acceptable. Step by step he had gradually advanced the compensation offer to RM 190,000.

"We, on our part, are extremely interested in acquiring the machine finally at the estimated value of RM 190,000. But we decline direct negotiations and dealings with ALSTHOM, as we are of the opinion that the machine was confiscated by the German Ruestungsinspektion (Armament Inspectorate), and thus it devolves upon the German authorities to arrange the settlement with the French and that we, thereupon, shall then enter into clearing negotiations with the German authorities."

Upon the Allied occupation of Germany the machines were found at the Krupp-Stahlbau factory and identified by members of a French commission and thereafter they were returned to the ALSTHOM plant at Belfort.

Until December 1943 all disbursements for capital investments by subsidiary companies and the parent firm exceeding 5,000 RM had to bear the approval of the three members of the Vorstand who at that time were defendants Krupp, Loeser, and the deceased Goerens. For investments over 10,000 RM the approval of Gustav Krupp was necessary in addition to that of the three members. After December 1943, capital investments of more than 5,000 RM had to have approval of defendants Janssen, Houdremont, Mueller, and the deceased Fritz Mueller who was

* Reproduced above in section VII F 1.

also a member of the Vorstand. If the amount exceeded 10,000 RM the approval of defendant Alfried Krupp was also necessary.

The minutes of the Vorstand meeting for 4 September 1940 shows the approval of an appropriation of 186,000 RM for the purchase of a machine for the Friedrich-Alfred-Huette firm at Rheinhausen. Whether this appropriation was intended for the machines confiscated at the ALSTHOM plant in the early part of 1941 does not appear. It is apparent to us, however, from the credible evidence that the matter received the attention of the Vorstand at various times from the acquisition of the machine in 1941 until the liberation of Paris in June [August] 1944, and that defendants Krupp, Loeser, Houdremont, Mueller, and Janssen are responsible for this confiscation and detention of these machines.

We conclude from the credible evidence that the removal and detention of these machines was a clear violation of Article 46 of the Hague Regulations.

MACHINES TAKEN FROM OTHER FRENCH PLANTS

The Krupp firm not only took over certain French industrial enterprises. It also considered occupied France as a hunting ground for additional equipment which was either shipped to the French enterprises operated by the Krupp firm or directly sent to Krupp establishments in Germany. The Krupp firm obtained this machinery from the local French economy, partly through their own efforts, and partly through those of various government offices. Some French machines were obtained from booty depots. Some were directly requisitioned from French firms, with payment offered to the owners after the confiscation. Some were purchased by Krupp through its representatives in Paris, and some could only be obtained after negotiations conducted by Krupp officials had been adequately backed up through the intervention of German authorities.

ROGES [RAW MATERIALS TRADING COMPANY]

In December 1940 the Raw Materials Trading Company which had been referred to as ROGES was founded at the request of the German Army High Command, the Economic and Armaments Office and the Reich Ministry of Economics "whose desire it was to utilize the raw materials in the occupied countries of western Europe and to accelerate their use in the German war economy."

Goods were obtained by ROGES in cooperation with the German military and economic agencies which could be placed in two

categories, namely, (1) captured goods referred to as "Booty Goods", and (2) purchased goods (those secured through the black market by German official agencies).

Under a special Goering decree, the Office of Plenipotentiary for Special Tasks was created which supervised and directed the procuring of goods in occupied countries through the black market. These goods and booty goods obtained in occupied countries by the German Army Command were turned over to ROGES. These goods as a rule were gathered together in depots from which they were distributed to German firms under directions from the Central Planning Commission. Both the booty and the black market goods consisted of wares of all kinds, such as household goods, raw materials, textiles, machines, tools, shoes, scrap metal, and other materials and were obtained in all the countries occupied by Germany. There were many machines and machine tools included in the booty goods.

The booty goods were not paid for and cost ROGES only the cost of transportation from the occupied territories to Germany. These as a rule were confiscated by the German military agencies and turned over to the branch offices of ROGES for shipment to Germany. The black market goods were procured by buyers acting under orders of the German Economic Ministry and the Armaments Ministry. All purchases had to be approved by the competent military commander in the occupied area. Prices were fixed by the buyers and the owners were paid by ROGES in currency of the particular occupied country, which foreign currency was furnished by the Reich, which came out of occupation costs.

These goods were then distributed from the ROGES depots to the various firms as requested by the Reich agencies and the economic groups. A great portion of these booty and black market goods was distributed at the request of the Reich Association Iron (RVE), of which defendant Alfried Krupp was vice chairman, to its member firms. In many instances the goods were shipped by ROGES direct from the occupied country to the firms in Germany when those firms had placed their order for certain goods in advance. In other cases the booty goods were sent by ROGES to a special booty center where they were then allocated by the Reich agencies and sent to the respective business firms. As a rule the prices paid for these items were the prevailing domestic prices and lower than ROGES paid for the black market goods. As ROGES paid nothing for the booty goods, the surplus resulting was credited to the supreme command of the armed forces.

During the war, campaigns for the collection of scrap metal were conducted and Major Schuh carried on these drives in the

occupied territories. These accumulations of scrap metal from the occupied countries were placed by ROGES at the disposal of German industry. The Krupp firm regularly obtained large quantities of this scrap metal from ROGES.

During the period of the war the Krupp firm received wares and goods of all kinds from ROGES, a total valuation of 14,243,-000 RM. This amount comprised 3,458,000 RM for "booty" goods and 10,785,000 RM for goods purchased on the black market. We are satisfied from the credible evidence presented that the Krupp firm knew the source of these goods purchased from ROGES and that certain of these items such as machines and materials were confiscated in the occupied territories and were so-called booty goods. Invoices for goods purchased on the black market always accompanied the goods to the firm as ROGES billed the firm for exactly the amount paid for the goods by ROGES. In the case of the booty goods, however, ROGES did not know the value as they had not paid for these items, hence the goods were sent to the particular firm without an invoice and the price was later settled between the firm and the Reich agency, after which the invoice was sent to the firm. Thus, it will be seen that the firms knew when goods arrived without an invoice that they were booty goods as distinguished from the goods purchased through the governmental agencies on the black market.

An interesting item appears in the minutes of the meeting of the Vorstand of Fried. Krupp A.G., 18 September 1941, attended by defendants Krupp and Loeser, showing approval of an appropriation of 13,550 RM for purchase of machine tools through "Krupp-Reparatur-Werk in Paris—Krawa."

On 31 December 1940 defendant Mueller was reporting to some of his colleagues—including among others the defendant Eberhardt—on a meeting, copies of which were sent to defendants Krupp, Pfirsch, Eberhardt, and Korschan, include the following paragraph:

> "11. *New machines for machine construction 21*—Dr. Mueller suggested that the new machines for Mb [machine construction] 21 be set up in Mb 20, as far as space is still available, in order to avoid any inconveniences in MB 21. He said it would also be advisable to have someone accompany the shipments of machines from France, since that was the only way to insure the speedy arrival of the machines."

In a note to defendant Loeser, 26 August 1942, his subordinate, Schroeder stated:

> "We are just now considering the intimation by the Wehrmacht to move our 12-ton tractor to France. For this it is im-

perative that we purchase in Paris more machines etc., for our workshops necessitating an outlay of about 1.2 million RM. We request you to authorize the amount."

MACHINES AND MATERIALS REMOVED FROM HOLLAND

For several years prior to the outbreak of the war the Krupp firm owned subsidiary Dutch companies, among them being the following: (1) Fried Krupp's Reederij en Transportbedrijf N.V. (Krupp's Shipping and Transport Co.); (2) Krupp's Erts-Handel Maatschappij N.V. (Krupp's Ore Trading Co.); (3) N.V. Stuwadoors Maatschappij "Kruwal" (The Stevedores Co.); and (4) Devon Erts Maatschappij N.V. (The Devon Ore Co.). The first three maintained their principal places of business at Rotterdam and the latter at Amsterdam.

In addition, Krupp-Eisenhandel (Krupp Iron Trade Co.), a Krupp subsidiary located at Duesseldorf, Germany, had a branch office at Rotterdam.

Throughout the period of the German occupation the Netherlands industries were forced to produce for the German war economy. By 1942 the so-called Lager-Aktion program was underway, under which the produce of the Dutch firms was seized and held for shipment to Germany. This covered, in the main, the period from 1942 to September 1944 which may be referred to as the first phase of organized spoliation. The branch office at Rotterdam of Krupp-Eisenhandel had sold Krupp products for many years in Holland and knew where many of these materials were located. The German authorities were informed and seized these products which included goods owned by the Board of Works, the Municipal Gas Works of Dutch municipalities, and several private firms. (Article 52 of the Hague Regulations protect "municipalities" of belligerently occupied territories as much as "inhabitants." In addition, Article 56 of the Hague Regulations reiterates: "The property of municipalities * * * shall be treated as private property.") These municipal and private enterprises were compelled to deliver these confiscated materials to various depots in Holland from which they were transported by the Krupp Dutch subsidiary, Krupp's Shipping and Transport Company, and shipped to Germany. The prices for these goods were arbitrarily set by the German authorities without the consent or approval of the Dutch owners. During this phase of the spoliation policy the Krupp subsidiary Dutch company shipped to Germany about 16,000 tons of confiscated materials which

consisted largely of fire-tubes, iron for reinforced concrete and shaped iron, a considerable portion of which reached the Krupp firms.

The second phase covers the period of September and October 1944 when it was thought that the Allied troops would soon liberate the Netherlands and that therefore sufficient time would not be available for the complete removal of industrial machinery and materials. Hence, only valuable machines and first-class materials were taken.

The third phase lasted from November 1944 until May 1945 during which time the Allied armies were held by the German Army after only a small portion of the Netherlands had been liberated. During this period a systematic plunder of public and private property was carried out.

By the fall of 1944 the Ruhr district had suffered heavy damage by bombing from the air. As a result, at the instigation of the Speer Ministry, the Ruhr Aid project was set up for the purpose of rehabilitating the industries of the Ruhr area. Under the plan tradesmen and skilled workmen throughout the Reich were to be recruited for work on reconstruction in the Ruhr. Suitable material for reconstruction was sequestered in the Reich and sent to the Ruhr district.

By October 1944 the Gusstahlfabrik (Cast Steel Works) in Essen was badly damaged by air raids. Minister Speer came to Essen to inspect the damaged plants and held a meeting while there which was attended by several members of the technical staff, members of the Vorstand, and other Krupp officials. At that meeting Speer proposed that German firms should seize machines and materials from the Dutch to rehabilitate the factories of the Ruhr. This suggestion, without doubt, prompted the ruthless and systematic plunder of Dutch industries which followed and which continued until the complete liberation of the Netherlands.

As a result of Speer's proposal, two employees of Krupp's technical department named Koch and Hennig were appointed by Rosenbaum, defendant Houdremont's direct subordinate, to proceed to Holland for the purpose of selecting machines and materials suitable for the Krupp industries in Germany. Several of the machine factories and the technical department were under the supervision of defendant Houdremont. Before leaving they were furnished a list of such machines and materials. At The Hague, Koch and Hennig were joined by Rosenbaum, mentioned above, and Johannes Schroeder, defendant Janssen's chief assistant. Together they proceeded to the German government office where they obtained the addresses of its branch offices in Rotter-

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dam, Amsterdam, and Utrecht. At the Rotterdam office of the German Ministry for Armament and War Production they obtained the names of shipyards and manufacturing enterprises in Rotterdam where they could inspect machines and materials for shipment to Germany. Koch and Hennig visited the Lips factory, which will hereinafter be referred to, where they selected machines that were suitable to their lists. Ten fitters were requested from Essen for the purpose of dismantling and shipping these machines to Essen. They also visited the factories of De Vries Robbé & Co. of the N.V. Nederlandsche Seintoestellen Fabriek in Hilversum which was a subsidiary of the Philips firm in Eindhoven, of the firm of Rademaker, and the scale factory of Berkel, as well as several idle shipyards; and at each of these plants they selected materials and equipment. At one idle shipyard, for example, they did not even neglect to designate ship toilets for removal—which appeared to be useful for the barracks at Essen. They also selected profile steel and iron bars. The following comment of Hennig is of interest:

> "At heart, I did not approve the confiscation of the machines from the Dutch owners, since I held the view that the forcible removal of the machines deprived the owners of the Dutch enterprises as well as the Dutch workers of the possibility to continue production. In my opinion, this action was to be condemned as an unjustifiable hardship for the Dutch."

We shall now discuss the evidence on the looting of three specific factories in the Netherlands which will illustrate the pattern followed during the period from September 1944 until the complete liberation of Holland in April and May 1945. Those factories are: (1) Metaalbedrijf Rademaker N.V., located at Rotterdam; (2) De Vries Robbé & Co., N.V., located at Gorinchem; and (3) Lips Brandkasten en Slotenfabrieken N.V., located at Dordrecht.

The firm of Rademaker was engaged in a very specialized business—the production of cogwheels. Prior to the war some competition existed between them and the Krupp firm in the Dutch market, hence Krupp was familiar with the factory installations and the type of machinery owned by Rademaker.

On 16 March 1944 Rademaker was advised by letter from the commissioner for the Netherlands of the Reich Ministry for Armaments and War Production that the Krupp firm at Essen was appointed the "sponsor firm" for Rademaker and that Krupp could delegate a firm commissioner who would exercise strict supervision over orders and deliveries and should be advised by Rademakers of everything relating to German orders and their execution.

In September 1944 a certain Gerosa, the head of the Rotterdam branch of the office of the Reich Ministry for War Production came to the Rademaker factory with a requisitioning order signed by himself, listing machines which were to be confiscated. He went through the factory and marked five very modern special grinding machines for confiscation. The following day he returned with twelve German workmen from the Krupp firm at Essen who proceeded to dismantle these machines and others which had been designated for dismantling in the meantime. Gerosa made the management responsible for the correct execution of his orders and threatened them if they failed to comply. At the beginning, only the best and newest machines were taken but a few weeks later they began taking everything that could be removed, including raw materials and tools. In all, there were twenty-one freight cars of machines and materials, all of which were sent to the Krupp firm at Essen.

Immediately upon the termination of the war the Rademaker firm instituted a search for the eighty-four machines which had been confiscated and were able to find all of them with the exception of three or four machines in a bombed-out Krupp shop at Essen. Fifty percent of the machines were damaged beyond repair.

In November 1944 the two representatives of the Krupp firm at Essen, Messrs. Koch and Hennig, visited the Rademaker factory. At that time practically all of the machines had been removed. They requested an inventory for all confiscated machines and tools which was refused.

The defense did not deny the fact that this valuable property of Rademaker was received by the Krupp firm, but asserted that Rademaker had voluntarily chosen the Krupp firm to receive it.

In answer to this position of the defense, we quote from the testimony of the Dutch witness, Hendrikus Esmeijer,* as follows:

> "On 29 September, Fliegerstabs-Ingenieur or Engineer Bauer, who worked there before, appeared with the motor factory man and stated that he would come again to take out all machines because they had to be shipped away. Bauer requested that I state an address in Germany where these machines would be shipped to. I said to Mr. Bauer, 'We do not want these machines taken away because it is a war regulation between Germany and Holland, and this was not in accordance with these regulations.' Consequently, Mr. Bauer said, 'If you do not want to give up these machines we will take them away by force,' and I said, well, do what you have to; and he again

* Complete testimony is recorded in the mimeographed transcript, 19 Feb. 1948, pp. 4414–4425.

requested that I give him an address in Germany. I refused that, but I said we have a sponsor firm in Germany, which is Friedrich Krupp. Let Krupp decide this. In answer, after that, machines were sent to Krupp Essen from Rademaker.

* * * * * * *

"Q. Witness, you mentioned something concerning asking the Krupp officials to safeguard the machines. Does this mean that you desired the machines removed from your factory to Germany?

* * * * * * *

"A. I absolutely refused to have these machines taken away to Germany because I felt that in September or October 1944 the machines were much safer in Holland than in Essen, Germany. I also told Messrs. Hennig and Koch that I have only one fear about the machines, that the Allied armies would advance through Essen and that our machines would be destroyed in the course of that advance."

In the case of De Vries Robbé and Company the system pursued followed closely that employed in the case of Rademaker.

A department of the Krupp firm, Stahlbau-Rheinhausen, manufactured the same products as were produced by the De Vries firm. Consequently, throughout the occupation of Holland by Germany the De Vries firm was required to produce for the Krupp firm at Rheinhausen. As early as September or October 1940, some Krupp Rheinhausen officials looked over the factory. In 1942 technical officials of Krupp Rheinhausen spoke to technical officials of the De Vries firm about Krupp's intention to buy or otherwise take over the factory, but for some time no further steps were taken in that direction.

On 21 April 1944 the De Vries firm was advised by the Netherlands Office of the Reich Ministry for Armament and War Production that it was placed under the sponsorship of the Krupp Rheinhausen firm. A letter of Krupp Rheinhausen, dated 5 June 1944, confirmed this, stating that Karl Breitung of the Dutch subsidiary firm Krupp-Eisenhandel had been appointed as Rheinhausen's delegate to the firm.

In October 1944 the same Captain Bauer of the German Air Force who carried out the confiscation of Rademaker's advised the De Vries firm that all their material would be confiscated. Immediately the German military authorities carried away large quantities of zinc wire, bolts, and nuts which were shipped to the Krupp firm at Rheinhausen. Thereafter the De Vries firm was informed that its machines would also be taken giving as a reason that the valuable machines and materials had to be protected and

placed with Krupp for safekeeping in view of a possible Allied invasion. Resistance to this seizure was impossible. In late November, Koch and Hennig of the Krupp Essen firm called at the factory and designated the machines and machine tools which were to be taken. As a result of this visit, a large shipload of material was sent to Krupp Rheinhausen in January 1945.

At first only the most valuable and modern machines were taken. Later on, everything that could be used and dismantled was carried away.

Practically all the material taken was sent to Krupp Rheinhausen. Its total weight, exclusive of the machines and tools taken, was 2,860 tons. Of the forty-eight machines sent to Rheinhausen, twenty were found and returned after the war ended. About 47 percent of the material dispatched to Rheinhausen was found and returned.

The same pattern was followed in the case of the Lips firm. This firm was engaged in the manufacture of safes, steel furniture, locks, and other related items. The factory was located at Dordrecht, but the company also operated branch stores in other cities of the Netherlands. In September and October 1944, members of the Field Economics Office came to the town of Dordrecht and proceeded to confiscate the goods of various firms of that city, including the Lips firm. Not only were the machines of the company confiscated but also implements, boxes, charcoal, tables, chairs, dining utensils, their entire stock of locks from the branch store at Utrecht—without opportunity to invoice them—and a number of locks from their stock at Dordrecht.

Representatives of the Krupp firm at Essen came to the factory in December 1944 to look over the machinery and in about a month thereafter the Krupp workmen participated actively in removing machines from the factory. They told the Lips workmen that if they did not work fast enough in assisting to remove the machines they would call in the Wehrmacht. A comment reported to have been made by two representatives of the Field Economic Office, namely, Boelke and Goetz is of interest. They advised the Lips firm that in their opinion enough machines had been removed from the factory and referred to the Krupp men as the "Robbers." The specific items which were forwarded to the Krupp firm at Essen consisted largely of machines and materials and are shown in (*Document NIK–7441*) Prosecution Exhibit 752.

The position taken by Lips was the same as that of the other firms. Active resistance was impossible and out of the question. They did not place any price on the seized machines and materials although the opportunity was extended to them because they did

not trade in these goods and they wanted to make it clear that the materials were taken from them by force and without any voluntary assistance or assent on their part.

There were other firms such as the Nederlandsche Seintoestellen Fabriek N.V., located at Hilversum and various shipyards which have been mentioned above from which machines, implements, and material were taken. Suffice to say that the system of confiscation and transportation of these goods followed the same pattern. After the war ended most of the machines sent to the Krupp Essen firm from Holland were found in machine construction shops 9 and 10.

We conclude that it has been clearly established by credible evidence that from 1942 onward illegal acts of spoliation and plunder were committed by, and in behalf of, the Krupp firm in the Netherlands on a large scale, and that particularly between about September 1944 and the spring of 1945, certain industries of the Netherlands were exploited and plundered for the German war effort,* "in the most ruthless way, without consideration of the local economy, and in consequence of a deliberate design and policy."

Another example of the aggressive attitude of the Krupp firm and the reliance placed upon government officials to assist it in acquiring properties in the occupied territories is the attempted purchase of a shipyard in the Netherlands, owned by a Dutchman named Wortelboor. The Krupp firm wished to obtain a shipyard on the Rhine to be used in conjunction with the Krupp-Stahlbau plant at Rheinhausen. For this purpose Schroeder, defendant Loeser's chief assistant, journeyed to Holland in company with an official of the Krupp-Stahlbau plant and a Dr. Knobloch, to inspect, and appraise the Wortelboor shipyard.

Schroeder reported to defendant Loeser, his superior, that the shipyard would be suitable, but the Krupp firm's subsequent efforts to purchase the property were frustrated because Wortelboor decided not to sell. We quote from a portion of Schroeder's report, dated 11 June 1942 (*NIK–5997, Pros. Ex. 814*):

> "Mr. Wortelboor is a Dutchman. He plainly has no interest in furthering the plans of the German Navy.
>
> "A plan of working in cooperation with Wortelboor does not appear feasible to us * * *. We would be interested in buying the dockyard if it is to be had at a reasonable price. Dr. Knobloch will inform the navy of our way of looking at the matter, and will suggest that the navy exert a certain amount of pressure on Wortelboor * * *. Perhaps Wortelboor will then

* Trial of the Major War Criminals, *op. cit. supra*, volume I, page 239.

yield and agree to make a sale, for which he shows no interest at the moment."

The credible evidence discloses active participation in the acquisition of machines from France and Holland by defendants Krupp, Houdremont, Mueller, Janssen, and Eberhardt and from Holland by the same defendants with the exception of defendant Eberhardt. Defendant Loeser did not participate in the acquisition of machinery and materials subsequent to April 1943 but prior thereto as head of the finance department and member of the inner Vorstand he, together with defendant Krupp, approved a credit application for purchase of machinery at the Austin factory and an application for credit of 1.2 million RM for the purchase of machinery in France. The agenda for an Aufsichtsrat meeting in March 1943 sent out by defendant Krupp to defendants Loeser, Houdremont, Mueller, Janssen, Pfirsch, and Korschan included a large list of credits for new construction and acquisition of machines which includes an item of "800,000 RM for booty machines for machine construction 20 and 21." A report on the method of acquisition of machines in France was initialed by defendant Houdremont. Reference has already been made to the statement by defendant Mueller that someone should accompany the machines from France in order to assure their speedy arrival. Moreover, subsequent to April 1943 expenditures for machinery in excess of 5,000 RM needed the approval of defendants Houdremont, Mueller and Janssen, and if in excess of 10,000 RM the approval of defendant Krupp. As has been previously stated defendants Krupp and Loeser were members of the Vorstand of the Krupp firm until April 1943 at which time defendant Loeser retired from the firm and thereafter the Vorstand consisted of defendants Krupp, Houdremont, Mueller, and Janssen. Defendant Eberhardt was a deputy member and head of the commercial sales department. In the acquisition of machines and property in France he was the most active in the field of all defendants.

The defense have argued at length that the Krupp firm did not desire to participate in the spoliation of occupied countries but that whatever action was taken on their part in the acquiring of machines, materials, and other properties was solely upon the orders of the Reich government in the furtherance of war production. For example, the claim is made that the confiscation of the two large bending machines obtained from ALSTHOM—which we have discussed heretofore—was the direct responsibility of the Navy High Command, and that the Krupp firm had no alternative except to remove the machines and utilize them for

the duration in carrying out the submarine program. Another example is the claim that the Krupp firm did not desire to use confiscated machines from Holland although the record shows that their own men proceeded to Holland with a suggested list of essential machines and on the basis of this list selected machines which were confiscated and sent to Germany for use in Krupp plants. There are numerous other such examples, all of which make it clear to us that the initiative for the acquisition of properties, machines, and materials in the occupied countries was that of the Krupp firm and that it utilized the Reich government and Reich agencies whenever necessary to accomplish its purpose, preferring in some instances, as has been shown, to remain in the background while the negotiations were handled by the government agencies.

This "initiative" on the part of the Krupp firm is best shown by two letters admitted in evidence, both of which are signed by defendant Loeser's right-hand man, Johannes Schroeder. One is addressed to his colleague Dr. Buseman and the other to defendant Eberhardt. We quote them *in toto*—their purpose is clear:

> "Mr. A. von Bohlen just asked me which steps we had undertaken to secure trusteeships of enterprises of interest to us in case American property would be confiscated as a retaliation against the Americans.
>
> "I told him that you are slated to become a trustee for the National-Krupp Registrierkassen, G.m.b.H. (National-Krupp Cash Register, Ltd.).
>
> "In my opinion, however, it is not sufficient if this is arranged with the company. There is rather required a consent from government authorities, probably from Ministerialdirektor Dr. Ernst.
>
> "Mr. A. von Bohlen requests you to report to him briefly.
>
> "Since I shall not be present tomorrow, and not having been able to reach you today, I inform you about this matter in writing."

The second letter is as follows:

> "We were discussing the Duerkopp Works a few days ago. I have not done anything yet, since I wanted to await the return of Dr. Loeser.
>
> "Would the 'Singer sewing machines' also be suitable for you. The Singer sewing machines are, to my knowledge, American property. The appointment of trustees as a retaliation against the Americans is to be reckoned with shortly. Maybe a man of Krupp could then become a trustee."

Thus, we see that 6 months prior to the attack on Pearl Harbor, the defendant Alfried Krupp was taking the initiative in acquiring American interests for the Krupp firm of which fact the defendants Loeser and Eberhardt were well aware.

With respect to the acquisition of the Berndorfer plant in Austria by the Krupp firm we are of the opinion that we do not have jurisdiction to which conclusion Judge Wilkins dissents.

Upon the facts hereinabove found we conclude beyond a reasonable doubt that the defendants Krupp, Loeser, Houdremont, Mueller, Janssen, and Eberhardt are guilty on count two of the indictment. The reasons upon which these findings of guilt are based have been set forth heretofore in the discussion of each specific act of spoliation.

The nature and extent of their participation was not the same in all cases and therefore these differences will be taken into consideration in the imposition of the sentences upon them.

The evidence presented against the defendants Karl Pfirsch, Heinrich Korschan, Max Ihn, and Friedrich von Buelow we deem insufficient to support the charge of spoliation against them as set forth in count two, and we, therefore, acquit Karl Pfirsch, Heinrich Korschan, Max Ihn, and Friedrich von Buelow of count two of the indictment.

The defendants Werner Lehmann and Hans Kupke were not charged with this offense.

Count three of the indictment charges all of the defendants of a violation of Article II, paragraphs 1 (*b*) and (*c*) of Control Council Law No. 10. These provisions are as follows:

> "(*b*) *War Crimes.* Atrocities of offenses against persons or property constituting violations of the laws or customs of war, including but not limited to, murder, ill treatment or deportation to slave labor or for any other purpose, of civilian population from occupied territory, murder or ill treatment of prisoners of war or persons on the seas, killing of hostages, plunder of public or private property, wanton destruction of cities, towns or villages, or devastation not justified by military necessity.
>
> "(*c*) *Crimes against Humanity.* Atrocities and offenses, including but not limited to murder, extermination, enslavement, deportation, imprisonment, torture, rape, or other inhumane acts committed against any civilian population, or persecutions on political, racial or religious ground whether or not in violation of the domestic laws of the country where perpetrated."

It is also averred that the acts relied upon as constituting violations of these provisions were likewise violations of the laws and

customs of war, of the general principles of criminal law as derived from the criminal laws of all civilized nations and of international conventions, particularly of certain specified articles of the Hague Regulations of Land Warfare, 1907, and of the Prisoners of War Convention, Geneva, 1929.

All of the acts relied upon as constituting crimes against humanity occurred during and in connection with the war.

Civilians brought under compulsion from occupied territories and concentration camp inmates and prisoners of war were used in the German armament industry during the war on a vast scale. There is no contention to the contrary. Likewise, the undisputed evidence shows that the firm of Krupp participated extensively in this labor program. According to an analysis, introduced by the prosecution, of the documentary evidence, the whole enterprise consisting of about 81 separate plants within greater Germany employed, between 1940 and 1945, a total of 69,898 foreign civilian workers and 4,978 concentration camp inmates; the great majority were forcibly brought to Germany and detained under compulsion throughout the period of their service, as well as 23,076 prisoners of war.

The principal plant of the concern was the Gusstahlfabrik located in Essen, the headquarters of the enterprise. The Gusstahlfabrik is known in the record as the Cast Steel Factory, the name having been taken from the original factory with which became the nucleus of the Krupp enterprise. However, the name is misleading. It was not a factory but consisted of between 80 to 100 factories all located in Essen. We deem it necessary to deal in detail with this plant only, and for convenience we refer to it upon occasion as the Cast Steel Factory. With one or two exceptions, we need only refer in passing to the subsidiary companies located outside Essen.

It would serve no useful purpose to undertake to specify the number of prisoners of war and foreign civilian workers employed each year in the Cast Steel Factory. Taking, as the defense does, August 1943 as the key date, it is sufficient to say that at that time, of a total number of 70 to 76 thousand workers employed in Essen, 2,412 were prisoners of war and 11,557 were foreign civilian workers.

Under the Hague Regulations of Land Warfare, the employment of prisoners of war must be "according to their rank and aptitude." (Art. 6, para. 1.) Their "tasks shall not be excessive and shall have no connection with the operations of war." (Art. 6, par. 2.)

Article 29, of Geneva Convention, provides "no prisoner of war may be employed at labors for which he is physically unfit."

Article 30 stipulates that "the length of the day's work of prisoners of war, including therein the trip going and returning, shall not be excessive and must not, in any case, exceed that allowed for civilian workers in the region employed at the same work. Every prisoner shall be allowed a rest of 24 hours of every week, preferably on Sunday." Article 31, paragraph 1, provides that "labor furnished for prisoners of war shall have no direct relation with war operations. It is especially prohibited to use prisoners for manufacturing and transporting arms or munitions of any kind or for transporting material intended for combat units." By Article 32, it is forbidden to use prisoners of war at unhealthful or dangerous work, and the same article also provides that any aggravation of the conditions of labor by disciplinary measures is forbidden.

In a compilation by the Reich Minister of Labor of the laws governing employment of prisoners of war published in the Reich Labor Gazette, 25 July 1940 there was a provision that "the work to be performed by the prisoners of war must not be directly connected with the operations of war." So far as it appears, this law was never amended or repealed. Keitel seems to have been responsible for an order to the contrary. There is oral testimony of two or three witnesses to the effect that they thought the order was issued on oral instructions from Hitler.

The laws and customs of war are binding no less upon private individuals than upon government officials and military personnel. In case they are violated there may be a difference in the degree of guilt, depending upon the circumstances, but none in the fact of guilt.

Practically every one of the foregoing provisions were violated in the Krupp enterprises. In the early stages of the war, it was sought to evade the provisions of Article 31 of the Geneva Convention and the corresponding provisions of the Hague Regulations as well as the German law above quoted by an interpretation alleged to have been given by the commandant of the prisoner of war camp or some other military authorities. This appears from a memorandum of a Krupp representative who attended a conference of counterespionage employees of the armament industry of Wehrkreis 6, held at Essen on 5 December 1940. He reported to the officials of the Krupp firm as follows (D–198, Pros. Ex. 848) :*

> "According to international agreement PW's may not be employed in the manufacture and transportation of arms and war material. But if any material cannot be clearly recognized as being part of a weapon, it is permissible to get them to work on it. Responsible for this decision is not the intelligence branch (Abwehrstelle) but the commandant of the PW camp."

* Reproduced in section VIII G 1.

This brings to mind the German practices in the First World War in the use of poison gas. By the Hague Convention of 1907 and the Geneva Convention of 1907,[1] it was agreed that the signatories would not use "projectiles," the sole object of which is diffusing of noxious gas. The Germans sought to justify their use of gas by the insistence that in view of the explicit stipulation that "projectiles" are prohibited, the use of gas from "cylinders" was legal and this notwithstanding the effect upon the victim was much worse.

But in the recent conflict all pretense was in time abandoned and by the defense's own evidence, as well as that of the prosecution, it is conclusively shown that throughout German industry in general, and the firm of Krupp and its subsidiaries in particular, prisoners of war of several nations including French, Belgian, Dutch, Polish, Yugoslav, Russian, and Italian military internees were employed in armament production in violation of the laws and customs of war. It is equally clear that in many instances, including employment in the Krupp coal mines, prisoners of war were assigned to tasks without regard to their previous trainings, in work for which they were physically unfit and which was dangerous and unhealthy.

The practice began as early as August 1940. At that time, 185 Belgian and Dutch prisoners of war were employed at the Gusstahlfabrik in Essen. French prisoners of war were employed in armament production as early as 1941 and Russian prisoners of war beginning in March 1942. Polish prisoners of war were employed at ELMAG in 1944 and during the disastrous air raids in the fall of that year, more than 3,000 prisoners were employed in Essen. In the various subsidiaries the practice was likewise pursued. These included the Friedrich-Alfred-Huette, the Bergwerke Essen, the Grusonwerk, the Berthawerk, and the ELMAG. In the various enterprises 22,000 prisoners of war were employed in June 1944.

Russian prisoners of war were discriminated against in every material respect. It was shown before the International Military Tribunal, hereinafter referred to as the IMT, and shown here that prior to the attack on Russia, the high Nazi policy makers had determined not to observe international law in the treatment of Russian prisoners of war. The regulations on the subject were signed by General Reinecke on 8 September 1941. They brought a protest from Admiral Canaris.[2] He pointed out in substance that although Russia was not a party to the Geneva Convention,

[1] The words "Geneva Convention of 1907" appear to be a clerical error. The reference is evidently to the Hague Declaration No. XIV of 1907. The full title of this declaration is "Declaration Prohibiting the Discharge of Projectiles and Explosives from Balloons."

[2] Trial of the Major War Criminals, op. cit. supra, volume I, page 232.

the principles of general international law as to the treatment of prisoners of war were applicable. Continuing, he said:

> "Since the 18th century these have gradually been established along the lines that war captivity is neither revenge nor punishment, but solely protective custody, the only purpose of which is to prevent the prisoners of war from further participation in the war. This principle was developed in accordance with the view held by all armies that it is contrary to military tradition to kill or injure helpless people * * *. The decrees for the treatment of Soviet prisoners of war enclosed are based on a fundamentally different viewpoint."

The IMT held that this protest correctly stated the legal position. However, it was ignored entirely. The reason is indicated by a note by Keitel, chief of the High Command of the Armed Forces, made on the back of Admiral Canaris' protest. This is as follows:*

> "The objections arise from the military concept of chivalrous warfare. This is the destruction of an ideology. Therefore I approve and back the measures."

It is well enough to refer just here to the testimony of General Westhoff, who was introduced as a witness by the defendants. He had been a regimental commander on the eastern front, but in February 1943 returned to Germany to join the Armed Forces High Command for prisoners of war affairs. The actual decisions with respect to these matters, he testified, were made by the chief of the Armed Forces High Command. The office of Westhoff dealt with administrative tasks, particularly with the observance of the Geneva Convention. He said that the order relating to the treatment of Russian prisoners of war did not meet with the approval of armed forces in general, and after a struggle they succeeded in having it rescinded and that as a result after December 1942, Russian prisoners of war were treated according to the Geneva Convention. This may have been the official attitude of the competent authorities, but it is abundantly clear that it was not the attitude which prevailed in the Krupp enterprise.

But it is argued that since the employment of prisoners of war in the armament industry was authorized by directives of government officials or military authorities, the defendants had no reason to believe that it was wrong to do so and hence cannot be said to have had a criminal intent.

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* Ibid.

We know of no system under which ignorance of the law excuses crime. As to the question of intent, counsel has failed to distinguish between a general intent and a specific intent. When the crime consists not merely in doing an act but in doing it with a specific intent, the existence of that intent is an essential element and is not to be presumed from the commission of the act but must be proved. Upon the other hand, when a person acting without justification or excuse commits an act prohibited as a crime, his intention to commit the act constitutes criminal intent. In such case the existence of the criminal intent is presumed from commission of the act on the ground that a person is presumed to intend his voluntary acts and their natural and probable consequences. The rule that every man is presumed to know the law necessarily carries with it as a corollary the proposition that some persons may be found guilty of a crime who do not know the law and consequently that they may have imputed to them criminal intent in cases of which they have no realization of the wrongfulness of the act, much less an actual intent to commit the crime. A general criminal intent is sufficient in all cases in which a specific or other particular intent or mental element is not required by the law defining the crime.*

But apart from the foregoing well established principles, the evidence in this case shows that at least with respect to the managers of the Krupp enterprise the argument has no factual basis. The prosecution introduced the affidavit of Schroedter who was also examined before the Tribunal. As a witness, he certainly was not hostile to the defendants, but on the contrary endeavored to do the best he could for them. This was quite obvious. From 1926 until September 1943, Schroedter was the commercial management member of the Vorstand of the Germaniawerft, the shipbuilding subsidiary located at Kiel. The defendants Alfried Krupp, Loeser, and Janssen were members of the Aufsichtsrat of the Germaniawerft at the particular time in question. On account of the drafts of German workers for war service, Schroedter was having difficulty in finding the labor necessary to meet quotas assigned to the Germaniawerft by the navy. He testified that he had been promised prisoners of war or other foreign workers as replacements. The Germaniawerft was engaged in building warships and Schroedter had some scruples about using prisoners of war. He therefore decided to go to Essen and discuss the matter with the top officials there. This was in 1941 and Schroedter said at that time the prisoners of war available were largely French, Belgian, and Dutch.

* Miller, J., Handbook on Criminal Law (West Publishing Co., St. Paul, Minn., 1934), section 16, pages 57 and 58.

Upon his arrival in Essen, Schroedter explained his difficulties to the defendants Loeser and Krupp and inquired how the Gusstahlfabrik and other firms of the enterprise were using prisoners of war on armament projects. The defendant Krupp told him nothing specific but instead put him in charge of a plant manager who showed him around the factories in Essen with a view of demonstrating how the matter was handled there. Schroedter said he was not given any directives on how to employ prisoners of war in armament projects but that the defendant Krupp told him,* "you come to see us on all these questions. We'll show you how to do it and then you can draw your own conclusions of how to arrange matters in Kiel where conditions are different." Why this evasive attitude rather than an honest and frank discussion is unexplained. The unfavorable inference is inescapable.

Schroedter testified that from what he saw at the Gusstahlfabrik, he did not gain the impression that any prisoners of war were being employed directly in armament production, but in other tasks and that that was the policy he pursued at the Germaniawerft for, he said, "it was quite out of the question as far as I was concerned to occupy a prisoner of war on immediate armament production." But he also testified that in 1943, of 11,000 employees at the Germaniawerft there were 1,500 prisoners of war, and that the maximum number employed there at any time was roughly 2,000, including 400 to 500 French, 200 Dutch, and the remainder Russian. At that time, as shown by the defense evidence, Speer in January 1943 had forbidden all peacetime production. The Germaniawerft was engaged in building warships for the navy, principally submarines.

In his affidavit, the witness deposed that the defendants Krupp, Loeser, and one Girod told him that "the legitimacy of employing foreign workers on war work was not to be discussed." He further deposed that he often received instructions from Essen which he did not himself approve; that he discussed with the officials there the legitimacy of employing prisoners of war in armament production and was told by Loeser that he was to be guided by the way in which the matter was handled in Essen and that the question of legitimacy was to be put aside. This testimony leaves no doubt that the officials in Essen were quite well aware of the fact that the employment of prisoners of war in the production of armament was a violation of the law, and none about the fact that they did not intend for the managers of subsidiaries to raise any troublesome questions about it.

Moreover, it demonstrates the close connection between the directorate in Essen and the subsidiaries having a separate corporate structure such as Germaniawerft.

* Extracts of Schroedter's testimony are reproduced above in section VIII B 2.

As already said, Schroedter did the best he could for the defendants. He tried to leave the impression that no prisoners of war were employed in armament production in Essen, or at least that he saw none.

In contrast is an affidavit introduced by the defense of Hans Jauch who beginning in June 1942 was the commander of Stalag VI-F, in Bocholt. This Stalag had jurisdiction over the employment of prisoners of war in the Essen area. He deposed as follows (*Lehmann 149, Def. Ex. 1006*) :[1]

> "At Krupp the assignment of workers to jobs was governed by principles of expediency, that is, they were put wherever they were needed. A clear separation of production for war purposes and peace purposes was in a firm like Krupp presumably impossible under the sign of total war. I am of the opinion that if one had wanted to adhere strictly to the letter of the Geneva Convention in this respect the OKW probably ought not have assigned any PW's at all to a firm like Krupp and all similar firms."

The fact that during a substantial part of the war years, Russian prisoners of war and Italian military internees were required to work in a semistarved condition is conclusively shown by documentary evidence taken from the Krupp files which had been secreted as herein above stated. The evidence on the subject is voluminous and within reasonable limits cannot be discussed in detail. The evidence from the secreted Krupp files is conclusive on the question.

Russian prisoners of war began to arrive early in 1942. Of all the military prisoners they fared the worst. The utter inadequacy of the food supplied them is conclusively shown by protests made by managers of several of the plants of the Cast Steel Factory to which they were assigned by Krupp officials for work. A few illustrations will suffice. On 25 February 1942 the locomotive works, one of the factories in Essen, forwarded to Hupe, a Krupp official, the following (*D–164, Pros. Ex. 896*) :[2]

> "On the 16th of this month, 23 Russian prisoners of war were allocated to the boiler construction works. These men came to work in the morning without bread or tools. During the two breaks, the prisoners approached the German workers seated in the vicinity and plaintively begged for bread, pointing out that they were hungry. (At lunchtime on the first day, the firm was able to distribute among the Russian PW's food

[1] Other parts of this affidavit are reproduced above in section VIII G 3.
[2] Reproduced above in section VIII G 1.

left over by the French PW's.) On 17 February, at the instigation of Mr. Theile, I went to the kitchen in Weidkamp to remedy this state of affairs and negotiated with the manager of the kitchen, Miss Block, about the issue of some lunch. Miss Block immediately promised me to issue some food and in addition lent me the 22 mess tins which I asked for. On this occasion I also asked Miss Block to let our Russian PW's have, until further notice, at lunchtime such food as might be left over by the 800 Dutch personnel fed there. Miss Block agreed to this too, and issued a pot of milk soup as additional food for the next lunch. On the following day again the lunch allocation was very small. Since some Russians had already collapsed and since from the second day onward the special allocation too had ceased, I tried again to ask Miss Block by telephone for a further issue of food. Since my phone call did not have the desired effect, I paid another personal visit to Miss Block. This time Miss Block refused any further special allocation of food in a very brusque manner.

"After the Russian prisoners of war had been allocated to us by the labor allocation office on the 16th of this month, I immediately got in touch with Dr. Lehmann to settle the question of feeding them. I then learned that each prisoner receives 300 grams of bread between 0400 and 0500 hours. I pointed out that it was impossible to exist on this bread ration until 1800 hours, whereupon Dr. Lehmann told me that the Russian prisoners of war must not be allowed to get used to western European ways of feeding. I replied that the prisoners could not carry out the heavy labor required in the boiler construction shop on these rations and that it would not serve our purposes to keep the men at the works under these conditions. At the same time, however, I requested that if the Russians were to continue to be employed they should be given a hot midday meal and that, if possible, the bread ration should be divided, one-half being distributed early in the morning and the other half at the time of our breakfast break. This proposal of mine has already been put into effect by us with French prisoners of war and has proved effective and expedient.

"To my regret Dr. Lehmann did not agree to my proposal, however."

The Dr. Lehmann referred to in this communication is one of the defendants. On 26 March 1942, Theile, of the boiler construction shop, reported to Hupe that (*D–297, Pros. Ex. 901*)*—

"The Russian prisoners of war employed here are in a generally weak physical condition and can only partly be em-

* Reproduced above in section VIII G 1.

ployed on light fitting jobs, electric welding, and auxiliary jobs. Ten to 12 of the 32 Russians here are absent daily on account of illness.

"In March, for instance, 7 appeared for work only for a few days, 14 are nearly always ill, or come here in such a condition that they are not capable of even the lightest work. Therefore only 18 of the 32 remained who could be used only for the lightest jobs.

"The reason why the Russians are not capable of production is, in my opinion, that the food which they are given will never give them the strength for working which you hope for. The food one day, for instance, consisted of a watery soup with cabbage leaves and a few pieces of turnip."

This report was made 6 weeks after the first Russian prisoners of war had been employed in that factory. It was brought to the attention of Dr. Beusch and the defendant Ihn.

That the condition continued, nevertheless, is indicated by another document from the Krupp files. On 19 November 1942, Instrument Work Shop No. 11, another factory in Essen, reported to the labor allocation office as follows (*NIK–12358, Pros. Ex. 908*):*

"During the last few days we have again and again discovered that the food for the Russian prisoners of war who in our plant are exclusively employed on heavy work is totally inadequate. We have already expressed this in our letter to Mr. Ihn, dated 30 October 1942. We discover again and again that people who live on this diet always break down at work after a short time and sometimes die. It is no help to us to get a few workers assigned to us after a long fight. For this heavy work (processing of airplane armor plates) we have to insist that the food is adequate enough to actually keep these workers with us."

That the conditions described in these documents were general and known by every agency of the firm employing Russian prisoners of war is shown by the defense documents as well as those of the prosecution.

On 30 October 1942, a report was made by Eickmeier to the defendant Lehmann. Eickmeier was an employee of the labor allocation from 1 September 1942 until March 1945 and acted as the liaison official with the army authorities having supervision of the prisoners of war camps. He described his duties as those of a "trouble shooter" to straighten out difficulties arising at

* Ibid.

numerous Krupp plants employing prisoners of war. He testified that he made frequent inspections of the conditions often in company with an army inspection officer from the Stalag, and also a representative from the German Labor Front; and that in at least one instance such inspection took place in the presence of the officials from the internal labor allocation office.

In his report of 30 October 1942 to the defendant Lehmann, Eickmeier stated the following (*NIK–12359, Pros. Ex. 906*) :*

> "The general state of health and nutrition in all Russian prisoner of war camps is very unfavorable and is obvious to anybody who has had an opportunity to observe those things. I have of course also attempted on the spot to find out the causes of this fact. In all Russian camps, members of the army (among them veterans of the Russian campaign who certainly cannot be classed as friends of the Bolshevists) explained to me, that the food as far as *quantity was concerned* was insufficient, furthermore that food ought to be more substantial. Members of the army who have already been for sometime on prisoner guard duty declared that they had on various occasions observed new transports of prisoners who on arrival were in the best of health and appeared sturdy and strong, but after only a few weeks were in an extraordinarily weakened condition. Army medical inspectors have also made remarks in the camps along these lines and stated that they had never met with such a bad general state of affairs in the case of the Russians as in the Krupp camps. In fact the prisoners returning from work make a completely worn-out and limp impression. Some prisoners just simply totter back into camp. It must be taken into consideration that the prisoners have to march a considerable way to and from work in addition to the normal working hours. In my opinion the food should be improved by additional delivery of potatoes. (I also happened to hear from the guards that the prisoners at Hoesch get 3 liters of food.) Furthermore, care should be taken that the prisoners receive their food from the plant at the start of the rest period and do not spend it waiting in a queue for the food to be given out."

A file note of 24 October 1942 made by Trockel, Krupp employee, to Lehmann, which was also brought to the attention of the defendant Ihn, reports a telephone conversation with the chief army physician of the Bocholt Stalag, Dr. Holstein. This Stalag had supervision of prisoners of war in the Essen area. The conversation was with reference to conditions at camp Raumerstrasse and came about through the efforts of Krupp to return to

* Ibid.

the Stalag some of the physically unfit Russian prisoners of war. The report recites that (*NIK–15375, Pros. Ex. 1536*)—

> "Dr. H. [Holstein] complained bitterly that the Raumerstrasse camp was the one among all the camps under their jurisdiction which always had the largest number of sick prisoners. He could only assume that this was due to the camp food, camp management, etc. It was true, that conditions in the camp had already improved but it still had the highest sick rate. * * * He asked us on our part to do our best to improve conditions particularly in connection with food at the Raumerstrasse camp."

In October 1942 Dr. Toppesser of the drop forge plant after observing that the Russian prisoners of war who came there for treatment "gave evidence of appalling poor nutrition," pointed out that in a mine in the vicinity, the "nutrition of the prisoners of war was evidently quite good, notwithstanding their heavy work underground," and that this was due to the fact that the "mine purchased huge quantities of Swedish turnips as additional raw food for them," which put them in good condition. This information was transmitted to the defendant Lehmann.

The Krupp employee Eickmeier, hereinabove referred to was introduced as a witness for the defense. His efforts to explain away his reports were unique. It seems that in an effort to bring about an improvement, Lehmann intended to present the deplorable situation to the top officials of the firm. Eickmeier testified that at Lehmann's request he intentionally exaggerated the facts so as to make more impressive Lehmann's presentation of the need for relief. In the same connection, he testified that "difficulties we could not deal with ourselves were taken by Lehmann to offices in the very top levels in the firm."

But Eickmeier's cross-examination developed that his attempted explanation of his reports was not trustworthy. He admitted "the food was very meager; seemed to be largely a liquid diet, and I wanted to get them more solid food."

He also testified that before the prisoners of war were sent to the Krupp firm, they were examined by an army doctor for the purpose of weeding out those physically unfit to work and that there was no further examination made after their arrival. He likewise confirmed a statement in his report of 30 October 1942 that (*NIK–12359, Pros. Ex. 906*)*—

> "Members of the army who have already been for some time on prisoner of war guard duty declared that they had on various

* Reproduced above in section VIII G 1.

occasions observed new transports of prisoners who, on arrival, were in the best of health and appeared sturdy and strong, but after only a few weeks were in an extraordinarily weakened condition."

Conditions at the Krupp prisoners of war camps at the time under consideration were so bad that they came to the attention of the Army High Command. A contemporaneous document from the Krupp files records a telephone call made on 14 October 1942 by the Office of the Chief of the Prisoner of War Department of the Supreme Command of the Armed Forces, to the Krupp firm. The call was to the defendant von Buelow but he seems to have not been available and apparently it was taken by his secretary who made a record of it communicating it to von Buelow. The record is as follows (NIK–12356, Pros. Ex. 904)*:

"Subject: Telephone call by Colonel Breyer of the High Command of the Armed Forces, Department of PW's, Berlin. Colonel Breyer who wanted to talk to Mr. von Buelow, requested me to pass on the following to Mr. von Buelow:

"The High Command of the Armed Forces has lately received from their own offices and recently also in anonymous letters from the German population a considerable number of complaints about the treatment of PW's at the firm Krupp (especially that they are being beaten, and furthermore that they do not receive the food and time off that is due them. Among other things the PW's are said not to have received any potatoes for 6 weeks.) All those things would no longer occur anywhere else in Germany, the High Command of the Armed Forces has already requested several times that full food rations should be issued to the prisoners. In addition if they have to perform heavy work, they must also get corresponding time off, the same as the German workers. Colonel Breyer also informed me that the conditions at Krupp would be looked into either by the Army District Command or by the High Command of the Armed Forces themselves. He had requested General von der Schulenburg on the occasion of a trip to call at Krupp in person concerning this matter; unfortunately this had not been possible. I told Colonel Breyer that I could not judge the conditions but would pass on his information to Mr. von Buelow immediately."

When the foregoing information was communicated to the defendant von Buelow he passed it on to the defendant Lehmann with the advice that he had just had a call from a captain from the General Command Muenster, and that in the course of the conversation,—

* Ibid.

"I mentioned the call from Colonel Breyer, and told him that these complaints were certainly not justified. Besides, I was not the proper authority but would pass on the matter to competent officers in our firm. May I request you to take care of everything further."

There were also complaints by army officers charged with the supervision of prisoners of war about conditions in the Krupp enterprise. In January 1943, they again told Eickmeier that the "Oedema cases only existed in Krupp camps."

In June 1943, the official vegetable rations for Russian prisoners of war were less than one-quarter pound per day. In view of this fact, it is quite understandable how the department under the charge of the defendant Kupke reported "that it is impossible to prepare two even moderately satisfying hot meals on one and a half liters out of this quantity."

In the light of the foregoing documents, it cannot be said that the Krupp firm was required by governmental directives to work prisoners of war who, in many instances, were bordering on starvation. The Cast Steel Factory at Essen (Gusstahlfabrik) had officially been declared a military plant exclusively at the disposal of the High Command of the Armed Forces and of the Wehrmacht departments under its command, "which will furnish the plant with detailed instructions." The official directive expressly stated that only these military departments will have authority over this plant.

This was confirmed by Jauch, commander of Stalag VI-F at Bocholt, whose affidavit introduced by the defense has already been referred to. He deposed that (*Lehmann 149, Def. Ex. 1006*)* "naturally there were directives for the employment and treatment of prisoners of war which were based on the Geneva Convention. The executory decrees were issued by the High Command of the Armed Forces immediately. Thus the Stalags were only the organs which had to see to it that these directives were obeyed and not violated."

But apart from this evidence it is conclusively shown that the allocation of prisoners of war and their supervision was by the military authorities and, moreover, that requests by a firm for prisoners of war were granted only on condition that those physically unfit would not be put to work until they had been gotten in shape by proper feeding, or whatever measures were necessary.

This is made clear not only by documentary evidence offered by the defense, but also by the defense witness Borchmeyer who, beginning early in 1943, was the office chief of counterintelligence

* Reproduced in part in section VIII G 3 above.

at the Stalag, charged with supervision of prisoners of war camps in that area. Borchmeyer did the best he could to exonerate the defendants and the Krupp firm, but in the light of the contemporaneous documents his efforts must be regarded as futile. He testified that in many instances, because of their poor physical condition, Russian prisoners of war had to be "fed up" and "treated very carefully in regard to food in order to bring them up to strength," and very often this was a long process. But he made it clear that in granting requests for allocation of prisoners of war the Wehrmacht did so with the distinct understanding that it was the obligation of the employer to see that they were in the proper physical condition before putting them to work. With respect to Russian prisoners of war in particular, he testified that "they should be pampered and treated like raw eggs" and he was emphatic in stating that if any prisoners of war were put to work in a physically unfit or undernourished condition it was not the fault of the Wehrmacht but in part at least the fault of the factory to which they had been allocated.

Moreover, he confirmed that the employment of prisoners of war in the Krupp enterprise, particularly in Essen, exposed them to great danger. Anticipating the alleged defense of necessity, hereinafter discussed, it is interesting to note that Borchmeyer testified that he had no fear of reprisals for the policy of "pampering" Russian prisoners of war.

There is much evidence by the defense as to the so-called "pampering" of Russian prisoners of war, by "feeding them up" with extra rations before they were put to work. Such measures seem to have been considered necessary at the most temporarily. The defense introduced a letter from the board of directors of Fried. Krupp, A. G., Essen, dated 26 September 1942, signed by the defendants Ihn and Lehmann, addressed to the Army High Command. In this letter it was pointed out that a recent shift of Russian prisoners of war allocated for essential war work were so weak and undernourished that even with the best intention they were unable to work, and that with the food due them they could not be strengthened enough to work in the near future. It was accordingly asked "whether it might be possible to authorize additional food necessary for a feeding-up campaign" of from 4 to 6 weeks, which would be necessary to get the prisoners of war in condition to work. The letter concluded that "as we are, under the circumstances described, very anxious to employ the Russian prisoners of war in the very near future, we should be most grateful if you would give us your opinion on this matter as soon as possible." (Lehmann 421, Def. Ex. 1186) *

A reply to this letter, dated 15 October 1942, was as follows:

* Reproduced in section VIII G 1.

"As from 19 October 1942 new food regulations will be in force for Soviet prisoners of war with notable improvement of food allocations for these prisoners of war both in quality and quantity. The procurement of these supplies will make it possible to feed the Soviet prisoners of war adequately and to re-establish the full working capacity of the prisoners. Further provisions for special feeding-up of prisoners should therefore no longer be necessary." (Lehmann 422, Def. Ex. 1187) *

Whatever may be said about the inadequacy of official rations prior to October 1942, and the efforts made by the Krupp firm to bring about an increase, there are two determinative facts which are established beyond doubt by contemporaneous documents taken from the Krupp files, some of which are quoted hereinabove. These are (1) that Russian prisoners of war were put to heavy work when, due to undernourishment, they were totally unfit physically, and (2) that not only was there no official requirement that this be done, but it was directly contrary to the orders of the competent officials.

It may be conceded that there was some improvement in the feeding of prisoners of war by the middle of 1943, but such as it was it did not prove to be permanent.

The testimony of defense witness Marquardt, Krupp employee, indicates what the situation was in the summer and fall of 1944 with respect to the noon meals served in the factories during the break in working hours. Marquardt's wife and father-in-law also worked in Rolling Mill 2. Upon one occasion they decided to eat their noon meal at the plant instead of at their home. Marquardt testified that they tried it, "but we didn't continue like that for long because the food wasn't very good and definitely not what it should have been."

Moreover, that the prisoners were required to work in highly dangerous areas is conceded. It is no answer to say that because of the bombing attacks and the military situation in general life for everyone in Essen, including Germans, had become dangerous and difficult. The prisoners of war, concentration camp inmates, and in a large part the foreign civilian workers were not in Essen by choice. They had been brought there to an enemy country against their will, and kept there in a state of involuntary servitude. They were utterly unable to help themselves and absolutely dependent upon the officials of the Krupp firm for protection and for their every need. They had no choice as to when, how or where they should work; or whether they should work at all. In no sense can it be said that they were in any way responsible for the conditions now pleaded as an excuse. If those conditions made

* Ibid.

it impossible to give them the proper care, food, and protection they should not have been required to work at all, especially in one of the most dangerous places in all Europe. Instead what was required of the workers, including the foreigners, is correctly described in the brief of the counsel for the defendant Krupp as follows:

> "The Cast Steel Factory was in the very center of this inexorable struggle, and was most severely affected by it. One workshop after the other went up in flames or was gutted. Every breathing space was used to repair the damage and to maintain production. The big raid of 5 March 1943, caused such extensive damage in the works, that the production wage hours fell by 50 percent, and continued to fall from that date onward almost without interruption. One third and more of the whole work was devoted to the removal of damages and reconstruction."

It is further said in the same brief that "until the middle of 1943 it was attempted, as a matter of principle, to reconstruct destroyed huts as quickly as possible. After that these efforts were limited to a few camps only, which subsequently experienced up to five consecutive destructions and reconstructions."

In this connection it is proper to state that the evidence affirmatively shows that the Krupp officials as well as the German workers at that time had become convinced that the struggle was hopeless and defeat for Germany was inevitable.

The rations for Italian military internees were the same as those for western prisoners of war, but their diet had very bad results. The evidence with respect to the status of these internees is not very satisfactory. From what there is of it, it appears that in the main they were Italian soldiers who surrendered with their arms to the Germans in northern Italy after the Badoglio government came into power but before it declared war on Germany. These Italians were first accorded the status of prisoners of war, but later were forced to accept the status of foreign workers. We do not regard it necessary for present purposes to resolve this question one way or the other. In either view, it is obvious that they were brought to Germany under compulsion and kept in a state of servitude while employed in the armament industry in connection with a war against their own country.

They were principally employed in four plants, two of them the Gusstahlfabrik, Essen and the Friedrich-Alfred-Huette at Rheinhausen. A report from the latter concern in February 1944, showed that a sickness rate of 11 percent including 70 cases of oedema and 100 [cases of] loss of weight. It is also stated

that of 765 camp inmates, 35 percent were unfit or only partly fit for work and that the number of undernourished persons and cases of stomach and bowel trouble shows the food unsuitable for most of the Italian military internees.

A report from the same source in March 1944, shows a further deterioration in the condition of the prisoners. It concludes that "the present weight of these people, most of whom are expected to do work involving considerable physical exertion, is too low. With regard to the food and subsequently the output of the Italian military internees there exists an acute emergency which could only be met by a generous release of suitable food stuffs." The sick rate was still abnormally high in June 1944, and had increased in August 1944 almost a year after their imprisonment. In addition, the report of that month recites that a large part of these prisoners "suffered many foot injuries due to poor footwear." A similar situation prevailed in Essen with respect to the food given Italian military internees and the resulting sick rate. This is reflected by reports from the department headed by the defendant Kupke in the spring and summer of 1944.

Italian military internees were converted into civilian workers on 1 September 1944. From that date, all the limitations resulting from their former status were abolished and they thereafter received the rations of free foreign workers. The documents show a substantial improvement thereafter.

The defense claims that the condition of the Italian military internees during the time they were treated as prisoners of war was due not to the insufficiency of the food but to the manner in which it was prepared and the fact that it was of a kind to which the Italians were not accustomed. It is also insisted that this condition was soon remedied by putting in charge Italian chefs. If this be true, it must be conceded that it took an extraordinarily long time to find and apply the remedy. Moreover, the fact that the trouble was not entirely that claimed by the defense is indicated by the report of Dr. Jaeger, Krupp's senior camp physician. On the day the change of status took place he reported that "the food is now good and sufficient. There have been no more complaints, in spite of the scarcity of potatoes. I have been able to ascertain during the past year that the susceptibility and the bad general physical condition of the Italians improved a little. They were in a very bad general physical condition even when they arrived and this was of course increased by long marches on the way here, and unaccustomed working and climatic conditions."

The principal prisoner of war camps in Essen were Kraemerplatz, Raumerstrasse, Bottroperstrasse, and Noeggerathstrasse. There is no substantial controversy with respect to the prosecution's description of the conditions prevailing in these camps as to air raid protection and it is fully supported by the evidence. Originally, the French prisoners of war were housed in Kraemerplatz. They were transferred to Bottroperstrasse in March 1942. That camp was destroyed in an air raid in 1943, and the prisoners were then moved to Noeggerathstrasse where they remained to the end of the war notwithstanding that the camp was hit at least six times in air raids, twice severely. Bottroperstrasse was in the area of the Cast Steel Factory, and Kraemerplatz was immediately adjoining. Noeggerathstrasse was some distance away but was close to the main line of a railroad. The proximity of these camps, particularly the first three, to the 80-odd Krupp factories in Essen, rendered them extremely dangerous. The responsibility for the selection of the camp sites and their equipment was upon the firm, subject to the approval of representatives of the Stalag. In September 1939 after the outbreak of war the Krupp officials immediately anticipated that the Krupp buildings would be bombed. This affirmatively appears from the testimony of Schroeder, a Krupp official.

Nevertheless, the prisoner of war camps were located in about as dangerous places as could be found. Presumably, the location was due in part at least to the fact that proximity to the factories would prevent loss of working time in going to and from the camps. However this may be, it is certain that the camps were located in an area that was subject to bombing attacks; that these became increasingly severe as the war progressed, and that never at any time were adequate shelters provided. In 1941, at Kraemerplatz, there existed air raid shelters in the form of slit trenches. The Stalag protested that these facilities offer shrapnel proof protection for 220–225 men at most, whereas the total complement of the camp at that time was 450. Correction of the situation was delayed by the firm because "of the possibility of moving the prisoner of war camp." The number of inmates had reached 600 by a year later and so far as appears from the credible evidence the request of Stalag had not been complied with.

A railway tunnel served as the air raid shelter at Noeggerathstrasse where between 1,200 and 1,500 prisoners lived. The tunnel was sufficient to accommodate about two-thirds of that

number. Noeggerathstrasse was practically destroyed by an air raid in 1944. Nevertheless the French prisoners of war remained there. On 12 June 1944 the medical officer in charge of the camp protested to Dr. Jaeger, senior camp physician, that there were 170 men living in a "damp railway tunnel not suitable for permanent accommodation of human beings." The medical treatment was given out of doors and those living in the plants were forced to go for sick call to [the toilet of] a burned out public house; that medical orderlies were sleeping in a men's lavatory, and that drugs and wound dressings were lacking. The same conditions existed 3 months later. On 2 September 1944, Dr. Jaeger wrote the defendants Ihn and Kupke, among others, that the camp "is in a terrible condition. The people live in ash bins, dog kennels, old baking ovens and self-made huts. The food is barely sufficient. Krupp is responsible for housing and feeding. The supply of medicine and bandages is so extremely bad that proper medical treatment was not possible in many cases. This fact is detrimental to the prisoner of war camp. It is astonishing that the number of sick is not higher than it is and it varies between 9 and 10 percent. It is also understandable that there is not much willingness to work when conditions are such as they are mentioned above. When complaints are made that many of the prisoners of war are absent from work for 1 or 2 days, the camp can be blamed to a great extent for having insufficient organization." (*D–339, Pros. Ex. 917.*)[1]

As a result, two barracks were built for the prisoners. There has been no substantial attempt on the part of the defense to deny that the accommodations at Noeggerathstrasse were not as described. The insistence is that the French prisoners of war themselves insisted upon remaining there because of the protection against air raids which the railroad tunnel afforded them, notwithstanding that another camp for their accommodation had been built at another location. The testimony of Borchmeyer,[2] the representative of the Stalag, a witness for the defendant, describes the situation and gives the results. He stated:

> "This camp was rebuilt several times. When, one day, it was again completely wiped off the map—and I think on the day of the air raid or at the latest the day after this air raid—I visited this camp together with Dr. Lehmann who I used to accompany through the camps in cases like this, and on this occasion Dr. Lehmann said he could not take the responsibility for rebuilding the camp which, if you are superstitious, you might say had its fate cut out for itself, that it was destroyed

[1] Reproduced above in section VIII G 1.

[2] Further testimony of defense witness Josef Borchmeyer appears in section VIII G 3 above.

again and again while the adjacent camp was hardly ever hit—he told me he could not take the responsibility for rebuilding this camp in the same place. Another camp was prepared, which I visited at that time, which from the point of view of space and in every other respect was without fault. When I told the prisoners of war that they would be transferred to this new camp the spokesman of the French prisoners of war came to me and requested me—I should even say, he entreated me—to leave his fellow prisoners in the camp in the Noeggerathstrasse, although the camp had been completely destroyed. And the unfortunate people lived in the most primitive possible conditions, and his reason was this: Immediately adjacent to the camp there was a railroad shelter with an extremely strong layer of cement on top, and in this railroad underpass which was not open to traffic any more, Krupp had set up a large straw depot, and there the prisoners of war found shelter. The best possible shelter was in this railroad underpass, and they could lie there during the whole night. And that was the reason the spokesman gave me for his fellow prisoners of war wanting to remain at the Noeggerathstrasse camp under those primitive conditions, rather than to move into a new and nicer camp. He told me literally, the 'railroad tunnel is our life insurance.' I repeated this to Dr. Lehmann, who immediately stated his willingness to let the prisoners of war stay in Noeggerathstrasse, and to rebuild the camp once more, I believe for the sixth time."

The witness further testified that the Frenchmen volunteered to rebuild the camp themselves and did so. The railway tunnel referred to could accommodate but approximately half the prisoners. The others lived in the plants of the Cast Steel Factory which was a target for increasingly severe air raids.

We do not think that the testimony of Borchmeyer presents a defense to the violation of the obligation of the Krupp firm to furnish adequate air raid protection to the prisoners of war. Quite apart from the fact that it was illegal to employ them at all for war work, and to employ them in so dangerous an area, it was the duty of the employers to see that these prisoners were properly housed and furnished with adequate air raid protection. They were helpless, and in a very real sense they were wards of their masters.

As before said, the Russian prisoners of war began to arrive in Essen in 1942. They were located in Raumerstrasse, Hafenstrasse, and Herderstrasse. A report by Eickmeier to the defendant Lehmann of an inspection of camp Herderstrasse on 13 October 1942 offered in evidence by the defense states among other things (*Lehmann 347, Defense Ex. 1146*):*

* Reproduced above in section VIII G 1.

"Air raid precaution implements are missing altogether. Air raid slit trench for both guards and prisoners is also missing."

With respect to Raumerstrasse, it was reported on 16 October that Stalag representatives had made an inspection and that they had found "there are no air raid installations for the guards or the prisoners of war. One could not help gaining the impression that the space needed for same was not considered in the planning." On 15 January 1943, the defendant Lehmann reported to the housing administration that "yesterday Captain Fiene of the local guard command called me and said that slit trenches for the protection against splinters would have to be provided as soon as possible in the prisoner of war camps." Hafenstrasse camp was completely destroyed in a raid in March 1943, and at that time still lacked even slit trenches as air raid protection.

In 11 January 1943, the defendant Lehmann reported as follows (*NIK–12361, Pros. Ex. 919*) :*

"On Saturday, 9 January at 2230 the officer of the guard, Captain Dahlmann, rang me up and told me that the guards in our prisoner of war camps in Raumerstrasse were barely able to suppress a revolt among the Russian prisoners of war on the occasion of the air raid on Essen. In the opinion of Captain Dahlmann the reason why the prisoners of war became restive is that in the Raumerstrasse camp there are no slit trenches. He urgently requests that such trenches be dug in order, among other things, not to disturb the surrounding civilian population in case of serious trouble."

A copy of this report was sent to the defendants Loeser, Krupp, Ihn, and Kupke, among others.

It further appears from a defense document that the prisoners lacked even enough sand to put out phosphorous bombs which fell around the camp.

The defense evidence was to the effect that there was available to the prisoners at Raumerstrasse "a passageway underneath the railroad tracks" which they used as an air raid shelter. At this camp, there were from 1,200 to 1,500 prisoners and the witness admitted that the passageway could not accommodate that number so that during an air raid the remainder had to stay in camp and use slit trenches which finally had been built as the result of the report of defendant Lehmann above set forth.

Discrimination in the matter of air raid protection is also shown by the testimony of the defense witness Marquardt who worked in one of the numerous factories in Essen, utilizing the labor of

* Reproduced above in section VIII G 1.

concentration camp inmates and French prisoners of war, as well as of other nationalities. In the summer and fall of 1944, air attacks had become increasingly frequent. The devastating effect had been fully demonstrated. As counsel for the defense says the factories of the Gusstahlfabrik had indeed become a battleground. Protection during working hours was no less essential than in the camps. Marquardt testified that at that time the German employees used a new air raid shelter which had been built for them. The concentration camp inmates used a "day room" in the factory, formerly used by the German employees, which had been reinforced with protective walls and a concrete ceiling. The French prisoners of war were compelled to use a tunnel which they had dug in a slag heap outside the camp.

ILLEGAL USE OF FRENCH PRISONERS OF WAR

By way of justifying the use of French prisoners of war in armament industry it is claimed that this was authorized by an agreement with the Vichy government made through the ambassador to Berlin. As to this, it first may be said that there was no credible evidence of any such agreement. No written treaty or agreement was produced. The most any witness said was he understood there had been such agreement with Laval, communicated to competent Reich authorities by the Vichy ambassador. If so, there is no trustworthy evidence that any of these defendants acted upon the strength of it or even personally knew of it.

Moreover, if there was any such agreement it was void under the law of nations. There was no treaty of peace between Germany and France but only an armistice, the validity of which for present purpose only may be assumed. It did not put an end to the war between those two countries but was only intended to suspend hostilities between them. This was not fully accomplished. In France's overseas possessions and on Allied soil, French armed forces fighting under the command of Free French authorities waged war against Germany. In occupied France more and more Frenchmen actively resisted the invader and the overwhelming majority of the population was in full sympathy with Germany's opponents. Under such circumstances we have no hesitancy in reaching the conclusion that if Laval or the Vichy ambassador to Berlin made any agreement such as that claimed with respect to the use of French prisoners of war in German armament production, it was manifestly *contra bonus mores* and hence void.

In view of this conclusion it is unnecessary to decide in this case whether the Vichy government was legally established according to the requirements of the French constitution.

FOREIGN CIVILIAN WORKERS AND CONCENTRATION CAMP INMATES

After weighing the evidence the Tribunal finds that the facts on this aspect of the case as summarized by the prosecution have, in essence, been proved.

During the war, Dutch, Belgian, and French workers employed in Germany were referred to as western workers. The Czechs in many ways were treated by the Krupp firm like western workers, although upon some occasions they were subjected to the same mistreatment as so-called eastern workers. Among the western workers, a distinction was made between "free" labor and "convict" labor. The "free" workers were treated better than all of the other classes of labor with which we are concerned here. They had better rations and more liberty. They were, however, not free to leave their work and were also otherwise deprived of many basic rights. The employment of those foreign workers who entered and stayed in the employ of the Krupp organization on a genuinely voluntary basis was, of course, not reprehensible. But an ever increasing majority of the "free workers" were compelled to sign contracts, and if they refused to do so, they were liable to be sent to penal camps. At the end of their contractural period of employment, the "contract" was unilaterally considered renewed. If one of them failed to report for work, he was treated as "slacking," and also deprived of the small and insufficient food rations. Often, they would be reported to the Gestapo. Those who left their employment with the Krupp firm were charged with "breach of contract" and frequently were sent to a punishment camp maintained by the Gestapo. In the punishment camps, they were treated very badly. Their rations there were the same as those given to eastern workers. They were confined behind barbed wire; their movements were severely restricted; they were beaten frequently; and the distances they were required to walk to and from work were long. They were mistreated in many other respects, such as being denied packages and letters, forbidden to attend religious services, and given no pay.

Until the spring of 1942, only certain groups of so-called western workers were actually compelled to go into Germany. At that time, Sauckel's Labor Mobilization Program became effective, and

compulsory labor laws were enacted in the occupied countries. As stated in the International Military Tribunal judgment, the following appears:[1]

> "Sauckel's instructions, too, were that foreign labor should be recruited on a voluntary basis, but also provided that 'where, however, in the occupied territories, the appeal for volunteers does not suffice, obligatory service and drafting must under all circumstances be resorted to.' Rules requiring labor service in Germany were published in all the occupied territories."

Wholesale man hunts were conducted and able-bodied men were shipped to Germany as "convicts" without having been charged or convicted of any offense. Many were confined in a penal camp for 3 months during which time they were required to work for industrial plants. If their conduct met with approval they were graduated to the status of so-called "free" labor. This was a misnomer as they were detained under compulsion. As applied to the Krupp firm particularly, the taking of slave labor to Dechenschule and Neerfeldschule penal camps will be discussed later, as well as their treatment while there and while employed by the Krupp firm. The western slave laborers employed by the Krupp firm were procured in various ways. Some had signed contracts under compulsion; some because of their special skills had been ordered to go to Germany, and others had been taken because they belonged to a particular age group. Some of those who had endeavored to evade compulsory service referred to as "convicts," with others picked up in manhunts, were required to go to Germany and work for the Krupp firm. Subordinates of the defendant Lehmann were sent to occupied countries to secure workers. Lehmann went to Paris in 1942 "to take part in the negotiations concerning group recruitments." In October 1942 Hennig, an employee of the Krupp firm, was sent to France to assist in "the selection of the drafted individuals for Krupp." The number of French workers employed by the Krupp firm in the Cast Steel Factory at Essen rose from 293 as of October 1942, to 5,811 in March 1943.

In a report made by the defendant Lehmann and dated 21 December 1942, concerning his recent trip to Paris for the purpose of obtaining French labor to be "recruited" he said (*D–196, Pros. Ex. 888*):[2]

> "All authorities concerned in Paris and in the rest of France repeatedly stressed the very great importance of good accom-

[1] Trial of the Major War Criminals, *op. cit. supra*, volume I, page 245.
[2] Reproduced in part above in section VIII B 1.

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modations for French workers. Letters in which the French workers complain about bad accommodations, treatment, food, and shortage of labor in the factories are very harmful to the German recruiting program and are used by the opposition as welcome propaganda. Factories against which such complaints are made may be excluded from future allotments of workers.

"Unfortunately such complaints have also been received concerning Krupp. Documentary proof will be produced. Immediately everything possible must be done to refute these complaints, and to insure that no justified grounds for complaints exist in the future."

This clearly indicates that the expressed desire to improve the living conditions of foreign workers was motivated by the fear that future allotments of workers might not be had if the existing conditions continued. It was not because of any sympathy for the workers.

The defendant Lehmann had a Krupp representative go to Holland in October 1942 who remained there for 2 years and reported regularly to Lehmann. The number of Dutch workers employed by the Krupp firm in Essen rose from 33 in June 1942 to almost 1,700 in March 1943. Likewise, a representative of the Krupp firm was sent to Belgium. He was in Liege from where Belgian workers were sent to Dechenschule.

In May 1941, a Dutch concern was required to transfer a group of its workers to work for the Krupp firm at the Germaniawerke at Kiel. The Krupp firm benefited by the program instituted to compel 30,000 workers skilled in the iron producing trade to go to Germany. On 24 April 1942 at the time of the announcement of the Sauckel operation, the Krupp firm filed a request for 1,300 skilled Dutch workers, and another request was filed for a smaller number of skilled workers. Some Dutch workers who refused to sign contracts and go to Germany were sent to a camp maintained by the Gestapo in Holland. From there, they were shipped to Germany under guard, and afterward many of them were employed as foreign labor by the Krupp firm.

Dutch workers who attempted to escape from compulsory service in the Krupp firm, were arrested, confined in the penal camp, and returned to the Krupp firm. In September 1942, the Krupp firm wrote to the Main Department of Social Administration at Amsterdam, complaining that a large number of Dutch workers had not returned from leave. It was pointed out that the service of these workers was to be secured by conscription, if necessary, and it was requested that the workers be returned to

Essen. Those Dutch workers who could be arrested were then sent back to the Krupp firm. They were confined in the penal camp, Neerfeldschule, until they had earned the status of so-called "free" workers.

Czech workers sent to Essen for training for work in the Bertha Works were required to sign contracts. They were recaptured at the firm's request and first sent to a labor education camp and while confined required to work for the Krupp firm.

At the Bertha Works, one of the many large plants owned and operated by the Krupp firm, the slave laborers were required to work 12 hours daily, and many had only every third Sunday off. A witness, Brandejs, was required at one time, during 3 weeks to work shifts of 36 hours each with 12 hours off between each shift. The food rations furnished to these workers by the Krupp firm at the Bertha Works were grossly inadequate and the workers had to help to sustain themselves as well as they could, by food received from their families' meager supplies at home. They were not afforded sufficient protection from air raids.

Brutal recruitment drives were conducted in Belgium in 1944, and many Belgians were treated as "convicts." When, after a usual period of 3 months of punishment, they became so-called "free" workers, they were given back their clothing, permitted greater freedom, and were paid wages. Some in this class were employed by the Krupp firm.

Penal camps were maintained by the Krupp firm at Grusonwerk, at Friedrich-Alfred-Huette and at Essen. Those at Essen were known as Dechenschule and Neerfeldschule. Slave laborers used by the Krupp firm who failed to work sufficiently hard, or who endeavored to leave their work, were reported to the Werkschutz [plant police] and their report was frequently forwarded to the Gestapo with the request that action be taken. Those arrested were usually sentenced to serve 56 days in labor discipline cases, and three months for violating so-called labor "contracts."

In 1943 it became apparent that slave laborers reported to the Gestapo for punishment were not always sent back at the expiration of their sentences. In October of that year the defendant von Buelow made plans and laid down the conditions for the operation of a penal camp of its own by the Krupp Firm at the Gusstahlfabrik. It was planned at first entirely for Krupp workers, and to be operated as long as convenient to the firm. These regulations for the operation of the camp by the defendant von Buelow emphasized the fact that the camp was primarily for disciplinary purpose. In January 1944, construction of the camp was under way. Von Buelow took it upon himself to make sure

that iron bars were installed in the windows, that locks were put on the doors, and that an air raid shelter was provided for the guards. The camp was in operation in March 1944. After its establishment, it was used as a place of detention and punishment for western slave laborers, particularly Belgians who were sent to Germany as draft evaders. About 90 percent of the inmates were Belgians, the remainder being French, Italian, Polish, Yugoslavian, Bulgarian, Chinese, and Algerian. On some occasions eastern workers were committed to the camp by the Werkschutz of the Krupp firm as punishment.

Many of the so-called Belgian "convicts" were able-bodied young men who were useful as labor. Others were those who sought to escape slavery in Germany. In a memorandum from the defendant von Beulow appears the following (*NIK–12987, Pros. Ex. 1365*) :[1]

> "I would like to point out that workers from the special camp may be employed only with my permission—and I have to get previous permission from the secret police in charge of the camp. It must be remembered that primary requisite in the special camp is to 'educate' the men, the urgency of the work is only secondary."

Dechenschule was surrounded by barbed wire and patroled by a guard. The inmates were guarded at all times, even while at work in the Krupp plants. Upon their arrival, they were told that they were prisoners, and their heads were shaved. They were issued convict clothing, blue suits striped with yellow. They could not leave the camp without such suits. They were given wooden shoes which produced sores. One of the inmates of the camp, a Catholic priest, testified as follows:[2]

> "At 4:30 o'clock in the morning the guard would open the rooms, unlock and shout 'Aufstehen' which means 'get up'. He would come in with a piece of rubber hose which he would use for those who were not quick enough for his tastes. Between 5:00 and 5:10 a.m. there would be the first morning gathering. I wouldn't call it a roll call because we didn't have any names and any numbers at that time yet; it was therefore only a gathering and would not last long. It was simply that so and so many what they called 'Stuecke', so and so many pieces of human material would be numbered, pointed out for certain detachments and as soon as there were sufficient persons for that detachment, the guard would have them form ranks and then would march them to the factory section in question in silence.

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[1] Reproduced above in section VIII C 1.

[2] Extracts from Father Come's testimony are reproduced above in section VIII D 2.

"The work started at 6:00 a.m. There was an interval between 9:00 and 9:15 and—that is a.m.—another interval between 1:00 and 1:30 p.m. and the work would stop according to the various detachments between 5:30 p.m. and 6:00 p.m. after which the detachment would be brought back by the guards also in ranks and also in silence, back to the camps.

"Again, there was only a gathering and only the numbers were called up, that is, not the numbers of the prisoners, but they were simply counted to see that the same number came back from the detachment as had gone to the detachment. Then, between 6:00 and 6:30 p.m. before that, first the first soup distribution and then between 6:00 and 6:30 p.m. when all the detachments had come back from work there would be the evening roll call, very long, sometimes even endless and only after that there was the distribution of the second ladle of soup and also of the bread ration which had to last until the next evening. Then at 7:30–8:00 p.m. one could go out within the limits of the camp or else go and wash to the room, but all that lasted until only 8:30 because at 8:30, as I stated before, the guard would come and put lock and chain on the door and lock us in."

The inmates were deliberately assigned to heavy and dirty work in plants of the Krupp firm. The food, consisting of liquid and little else, at night was inadequate for men performing the labor required by the inmates. On occasions the earlier arrivals in the evening would consume the soup which was often sour, and nothing was left for the others upon their arrival. A witness who had been confined in the Neerfeldschule penal camp, testified that inmates ate the mice that infested the camp. Because of the improper nourishment, at least fifteen died on account of illness and malnutrition. Mistreatment in the camp was a daily occurrence. Beatings were a part of the life at Dechenschule. They were usually administered in the camp cellar. A witness called by the defense, who admitted that he beat inmates said he did so on the order of the camp commander and deputy camp leader. They were beaten with a four-edge leather truncheon, three-quarters of an inch thick. It was furnished by the deputy camp leader. The beaten men were denied medical assistance. In fact no real medical facilities were available to the prisoners. The so-called dispensary was a dirty room and was described by a witness as follows:

"Besides that, the dispensary was in the barracks, arranged over another room where inmates also slept, and the dust, the dirt, and even the excrements contained in the containers for human necessities would go through the floor and through the

wooden planks into the other room, and, therefore, the inmates had great reason to complain."

The problem of the medical care of these men was discussed at the time with the defendant Lehmann. They were denied religious consolation. As an air raid shelter, they were allowed to use only a trench, although adequate air raid protection was available nearby. In consequence, 61 of them lost their lives when the trench was hit in an air raid and medical assistance was not made available for more than 24 hours. After the destruction of Dechenschule, the penal camp was transferred to Neerfeldschule. There the conditions were worse than at Dechenschule. For example, the credible testimony of a former inmate was to the effect that the inmates fought for a dry spot on which to sleep at night, and that those who lost were forced to stand on their feet all night.

Both the Dechenschule and the Neerfeldschule camps belonged to the Krupp firm. The inadequate and limited facilities that existed there were provided by the firm's officials. The firm was responsible for supplying adequate air raid shelters. The food was provided by it. The guards were members of the Krupp Werkschutz. The inmates worked in Krupp plants to which they were assigned by officials of the firm. Their clothes were provided by the firm. Medical treatment was also the responsibility of the firm. The prisoners were beaten by guards in its employ.

The defendant von Buelow arranged for the confinement in Dechenschule of foreign workers who had been reported to the head of the Werkschutz for lack of discipline or other reasons. Although the defendants' defenses are discussed elsewhere, it seems advisable to point out here that in connection with the claim made for the defendants by their lawyers that the defendants did not act voluntarily, but under necessity, that the defendant von Buelow, who was Krupp's chief counterintelligence officer as well as head of the plant police, wrote the minutes of a meeting with the Gestapo on 14 March 1944 concerning Dechenschule. In the minutes he noted that he had "pointed out to Kriminalrat Nohles that the question of labor allocation is decisive for us, and that we would like to secure these valuable French workers for ourselves for this reason." (*NIK–15383, Pros. Ex. 1599*)*

The responsibility for the Dechenschule camp is not limited to the defendant von Buelow. Each of the defendants, except Loeser, Pfirsch, and Korschan, participated in the establishment and maintenance of the camp. The defendants Janssen, Houdremont, Erich Mueller, and Alfried Krupp, as members of the Vorstand, had to approve the expenditures made for it. The evi-

* Reproduced above in section VIII D 1.

dence indicates that von Buelow discussed its establishment with the directorate. Moreover the conclusion is inescapable that the then members knew of and approved of the project. The defendants Ihn and Eberhardt received copies of the minutes of a meeting of the special labor allocation officers, in which the establishment of the camp was announced.

Food and medical treatment in the camp were the responsibility of the Main Camp Administration headed by the defendant Kupke. The camp leader of Dechenschule, Fritz Fuehrer, regularly attended defendant Kupke's weekly conferences. The medical care was discussed by Dr. Jaeger with the defendant Lehmann. Transports of workers from Belgium were arranged by the labor allocation office under the defendant Lehmann. Kupke and Lehmann were both responsible to Ihn, who received copies of such papers as the medical agreement covering the workers. The conference held on 14 March 1944, in connection with the treatment and employment of the inmates at Dechenschule, was attended by representatives of Kupke's department, the Main Camp Administration, Lehmann's department, Labor Allocation A and one of Houdremont's departments, as well as by von Buelow. Representatives of the same departments attended another conference on the employment of Dechenschule inmates one week later.

The allocation of all foreign workers, including the inmates of Dechenschule, was the function of Labor Allocation I, which was responsible to the defendant Houdremont from the time it was established. Men from the camp worked in the furnace plant, at Rolling Mill I, at the sheet iron rolling mill, at the boiler plant, and other plants within the Gusstahlfabrik. Some of them worked in the main administration building where were the offices of the defendants Krupp, Janssen, Houdremont, Ihn, Lehmann, Kupke, and von Buelow. The defendants Janssen, Eberhardt, Houdremont, von Buelow, Ihn, Mueller, Kupke, and Lehmann necessarily saw the inmates either at their work or on their way to and from the camp.

Fritz Fuehrer, the camp leader at Dechenschule, complained to the defendant von Buelow that air raid shelters in the camp were not sufficient in number and quality adequately to protect all of the inmates, and that for four weeks no protection from bombing attacks had been provided for them as they were not allowed to leave their camps during the raids. The defendant von Buelow was responsible for administrative matters connected with the camp Dechenschule, subject to the supervision and control of the Gestapo.

As early as September 1942, plans had been made "to provide a special arrest barracks where the punished detainees will be centrally lodged."

Fritz Fuehrer, who was appointed camp leader of Dechenschule in February 1944 by defendant Kupke, complained to Kupke about the poor quality and insufficiency of the food.

On 12 January 1944, a discussion was had by the special labor allocation officers. The defendant von Buelow gave a lecture during this discussion. He said in part as follows (*NIK–9803, Pros. Ex. 1095*) :*

> "Foreigners must be treated with greater severity for strictness. For them, punishment away from work is especially suitable. Dechenschule will become a penal camp for eastern workers and Poles, under the supervision of the Gestapo. They are to be cared for by the main administration for the workers camps and plant police."

He invited special labor allocation officers "to enumerate especially difficult and dirty work for which these foreigners may be used in groups of 50–60." Reports were to be made to the defendant von Buelow. He also said, "an application for special leave from Italian civilians is *prima facie* untrustworthy."

Civilians from Poland and Russia were first brought to Essen in large numbers in 1942. In January 1942, the Gusstahlfabrik employed five Russians and sixty-seven Poles. In April 1942, 319 Russians and 462 Poles were employed. By the end of the year, the Gusstahlfabrik employed 5,787 Russians and 1,046 Poles. In October 1944, 3,535 Russians and 1,210 Polish workers were employed. The decline in the number of eastern workers from 1943 until the end of the war was caused particularly by the evacuation of sections of the Gusstahlfabrik, and the workers were taken to other plants of the Krupp firm. Eastern workers were also employed in the Krupp plants ELMAG, Suedwerke, Bertha Works at the Friedrich-Alfred-Huette, and at the Germaniawerft.

On 1 July 1942, the Krupp firm had pending a request for 8,819 workers, although it had received 6,844 workers including 3,439 Russians during the preceding 2 months. In requesting these workers, the firm advised the labor allocation authorities that there were no "substantial difficulties concerning billeting," and complained that the allocations to them had been insufficient. In consequence, Sauckel, the Plenipotentiary for Labor Allocation, was directed "to allocate to firm Krupp 3 to 4 thousand more workers in entire convoys from those Russian civilian workers

* Ibid.

presently arriving in Army District Command VI." Upon their arrival at Essen workers were assigned to different shops and factories of Gusstahlfabrik. They were employed in the foundries, rolling mills and forges which, as part of the "Steel Plants" were at that time subordinate to the defendant Korschan, the "Machine Plants" and general machine construction where finished armaments were made and the locomotive plant. The latter shops, as part of the "machinery plant" were subordinate to the defendant Erich Mueller after the reorganization of the Vorstand in March 1943. At that time, the defendant Houdremont, who had previously been Korschan's deputy, took over the foundries, including the "steel plants," formerly under the supervision of Korschan. Eastern workers continued to be employed in the Gusstahlfabrik until the occupation by the Allied troops. The Krupp firm sent an employee to Poland to select workers who should be recruited for Krupp service.

The eastern workers and the Russian prisoners of war were treated worse than all other classes of foreign workers, with the exception of concentration camp victims and the inmates of "labor education camps." Upon arrival, they were put under guard behind barbed wire in very bad camps; they were brought back and forth to work under guard. On alternate Sundays, particularly deserving eastern workers were allowed to take walks under the supervision of a German guard. They were compelled to wear distinguishing badges. The food was of very poor quality and not sufficient in amount. They were required to work very hard and received very little compensation. Some of these conditions improved as time went on; others did not improve but, on the contrary, became worse. The treatment of the eastern workers was inhumane.

The status of eastern workers was declared to be that of prisoners. The defendant Ihn, in a memorandum to the works managers, dated 13 March 1942, stated, "the Russian civilian workers are to be treated in the same way as prisoners of war. Any sympathy is false pity, which the courts will not accept as an excuse." (*NIK–6115, Pros. Ex. 1228*)* Again, on 29 November 1943, the defendant Ihn advised the plant managers that "eastern workers and Poles are subject to obligatory service for an unlimited period." (*NIK–10671, Pros. Ex. 950*)

At first only a very few were permitted to leave the camp on alternate Sundays under guard. In 1943 this was changed, and eastern workers who could obtain passes from the camp management were allowed to be out until dusk. Later this privilege was restricted or revoked. In October 1943, over a year after the

* Reproduced in section VIII G 1.

eastern workers arrived, the defendant Ihn sent a circular to the plants advising that eastern workers should be escorted to and from work by guards, except when trustworthy eastern workers appointed "troop leaders" are available. He pointed out that the number of such workers and the name of the "troop leader" must be indicated upon a written application made out in triplicate. On 26 May 1944, the defendant von Buelow gave substantially the same instructions to a Krupp employee.

As further indication of the direct control had by the Krupp firm over the activities of the eastern workers, reference is made to a memorandum by the defendant Ihn in September 1942 in which he said:

> "Eastern workers, whose conduct and output in the plant are good and whose behavior in the camp is blameless may be allowed once in a while to go out under supervision. If possible they shall be led out every second Sunday.
>
> "Only reliable members of the working force * * * may be chosen as escorts. Further instructions are laid down in a directive which will be issued to the escorts by the plant police."

The defendant von Buelow voluntarily aided in the restrictions placed upon these unfortunate people. This is shown by a memorandum from him to the defendants Lehmann and Kupke, dated 22 October 1943 in which he said, "It is indeed very deplorable that the general order which prohibits visits to German stores by eastern workers is being violated so frequently. In any case we should hold to the rule that on their way to and from work the detachments remain in closed ranks and that then visits to stores cannot be made." (*NIK–9206, Pros. Ex. 969*) *

The Reich Group Industry on 4 June 1942, by letter forwarded to the District Group Northwest of the Economic Group Iron Producing Industry to its members, said: "Camps will not be fenced in with barbed wire. Where barbed wire has been used it will be removed." Notwithstanding this, on 4 August 1942, the defendant von Buelow sent to the Krupp housing administration through the defendant Lehmann, after an inspection of the eastern workers camp at Spenléstrasse, instructions that, "the barbed wire fence should be made much stronger." A month later, Dr. Beusch, a subordinate of the defendant Loeser, recognized the official instructions in the following words, "the fencing in of the eastern workers' barracks with barbed wire is inadmissable. Same must be dispensed with in the future so that no objections will be raised. The removal of the existing barbed wire fences will be discussed at the next meeting."

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* Reproduced above in section VIII C 1.

The defendant von Buelow, however, continued to oppose the removal of the barbed wire fences. Even Hitler expressed his surprise that "the civilian Russians are kept behind barbed wire fences like prisoners of war."

On 25 April 1942 a decree was issued by Himmler, Chief of the Gestapo and the SS, in which it was stated that the camps must not be enclosed with barbed wire, and that barbed wire already in use for this purpose must be removed unless no other wire can be procured. As late as March 1943, the eastern workers' camps under the Main Camp Administration of the Krupp firm were still surrounded by barbed wire fences.

The camps in which the eastern workers were confined were overcrowded, very dirty, and inadequate in many ways. Although the Krupp firm represented to the labor allocation authorities in July 1942 that there were no "substantial difficulties concerning billeting," it was not prepared in the fall of that year to take care of the foreign workers brought to Essen at its own request. Long before the damage caused by the Allied air raids on Essen, the housing of the slave laborers by the Krupp firm of Essen was totally inadequate.

On one occasion, the Ministry of Armament and Munitions was advised by the Krupp firm that the latter could billet 8,000 workers requested. The day after this, the department of the Krupp firm responsible for housing the workers informed the building office that "the miserable conditions at camp Spenléstrasse have reached a stage which could hardly be surpassed." This condition was due to the fact that eastern workers were put into the camps before the camps were finished, and while they lacked toilets, washrooms, and other essentials. As noted by the defendant von Buelow in August 1942, at Amalienstrasse, "for approximately 150 in the camp there is just one latrine and one toilet available." The washing and lavatory facilities for the women's camps were still incomplete, after the eastern workers had moved into the Spenléstrasse camp and which then housed over 1,400 people. More workers were placed in the camps than they could accommodate. Some of the eastern workers employed by the Krupp firm were housed in tents, notwithstanding the cold weather, and others were in huts without any heat.

The lives of the workers were constantly in jeopardy. Although one camp was destroyed four times between March 1944 and the end of the war, the eastern workers were kept in it during that time because the plant management desired that foreign workers be at their working places for the duration of all shifts. This lack of protection against air raids resulted, of course, in the death of many of the eastern workers, and, in fact, certain statistics concerning these deaths were made by the Krupp firm.

In June 1944, approximately one thousand of the eastern workers lived in a Krupp camp referred to as Voerde. An equal number lived at Luescherhofstrasse, a Krupp camp within the premises of Gusstahlfabrik, and in Krupp camps attached directly to the plants in which they worked, such as, Machine Construction 10, Mechanical Workshop 2, and Armor Construction 4. Another thousand lived at Rabenhorst and Frintroperstrasse Ost, also run by the Krupp firm and both within the city limits of Essen. These eastern workers were moved closer to the area of danger from air raids and were made part of the target for the increasingly frequent and severe air raids.

The food furnished to the eastern workers employed by Krupp was deplorable. It was the same as they gave to the Russian prisoners of war and resulted in oedema, disease, and death of eastern workers in the winter of 1942–1943. The plant managers frequently complained of the inadequacy of the food furnished to eastern workers. In 1942, Krupp employees protested against the inadequate food made available to the Russian civilians. The defendant Ihn received memoranda pointing out that the food was insufficient to preserve the strength of the Russian workers. Hassel, a subordinate of the defendant von Buelow said when Krupp employees protested on behalf of the Russian civilians that "one was dealing with Bolsheviks and they ought to have beatings substituted for food." The head of the Krupp firm's hospitals reported to the defendants Ihn and Loeser that "the food supplied to the eastern workers has been and still is insufficient. The plant managers often need two Russians to do the work of one strong normal worker." It was reported to the defendants Ihn and von Buelow that several eastern workers suffered from hunger oedema. As shown by a survey made on 7 May 1943, four-fifths of the eastern workers who had died at a Krupp hospital died of tuberculosis and malnutrition.

Mothers were separated from their children. At camp Voerde, babies of eastern women were housed. Vivid descriptions have been given by defense witnesses of the pitiable condition of these most innocent victims of the cruel slave-labor program. A large number of these babies died because of malnutrition. As of January 1943, 132 infants had been received at Camp Voerde. Of these 132 infants, 98 died, including 88 between August 1944 and March 1945.

Eastern workers were mistreated in many other ways. According to the defendant Ihn, from the time of the arrival of Russians, towards the end of 1941, until about 1943, they were deprived of writing or receiving letters. In 1943, they were permitted to write letters for delivery within the Reich and to send form

post cards to Russia twice a month. As late as 1944, unknown to the workers, part of their outgoing and incoming mail was destroyed.

Russian workers were compelled at all times to wear a badge "Ost" ("east") and the Polish workers were compelled to wear a badge "P," in order that they might be distinguished. Failure to wear these was a cause for punishment. Even when the regulations were relayed and the eastern workers were permitted to go out under guard, they were not allowed to enter inns, shops, moving picture theaters, or associate with Germans or even with other foreign workers. It was the rule that escaping Russians must be shot. Those who escaped and were captured were sent to a concentration camp. They were required to work excessively long hours, and granted very few rest days. The net pay received by the eastern workers was very little.

These workers included old men and women, children, and pregnant women. One hundred and fifty boys of 14 years of age, were among the first eastern workers to arrive to work in the Krupp plant at Essen. In 1943, some of the eastern children employed by the Krupp firm were from 12 to 17 years of age. In 1944, children as young as 6 years of age were assigned for work.

Eastern workers were beaten as part of their daily routine. The beatings took place in the Krupp plants and in the camps. The victims were beaten by the camp leaders, by the auxiliary guards, by the Werkschutz and by ordinary workers. Weapons with which they were beaten were distributed by the Krupp firm. Although all foreign workers were subjected to mistreatment, the most severe and inhumane was that suffered by the Russian prisoners of war and the eastern civilian labor.

A so-called "cage" was put into operation in one of the Krupp buildings. The Werkschutz and its affiliates, the auxiliary guards, Enlarged Werkschutz I and Enlarged Werkschutz II, were primarily responsible for the systematic abuse of the eastern workers. The Werkschutz was responsible for guarding the workers in the plants and on their way to and from the camps. It administered the eastern workers' camps until 1943 and supplied the camp leaders. It undertook the punishment of the workers within the plant and reported to the Gestapo all workers whom it considered required incarceration in a labor education camp or concentration camp. Its two auxiliary organizations, the so-called Enlarged Werkschutz I and Enlarged Werkschutz II, assisted it. The Enlarged Werkschutz I was given rooms in the main administration building, just below offices belonging to the Werkschutz and in which von Buelow and his sadist subordinate, Hassel, worked. Its members lived in barracks and were given semi-

military training. Its purported purpose was to quell unrest among the foreigners.

Enlarged Werkschutz II was organized in 1943. Eight persons in each shift in each plant were appointed to it. Its ostensible purpose, likewise, was to suppress riots, but the weapons furnished to it, leather truncheons, were much more suitable for flogging. Its functions were performed within the plants. As bad as the beatings were, women confined in the "cage" begged for beatings rather than to have to undergo the torture of being in the "cage."

Illustrations of just what these unfortunate eastern workers were exposed to during the time they were forced to work for the Krupp firm are given in the records of a case decided by the Denazification Board of Kulmbach on 30 October 1947, and admitted in evidence in the present case. There one Ernst Wirtz a former Krupp guard was found guilty of "violation of international law with regard to foreign civilian workers and prisoners of war" and was sentenced to 8 years imprisonment. The following acts of brutality were established: beating eastern workers, male and female, with a wooden board, a rubber hose, his fists; waking eastern workers with a water hose; throwing a French civilian down a stairway; and ruthlessly beating a Russian prisoner of war with a four-edged piece of wood resulting in death from head injuries. Many of his victims required medical treatment as a result of his brutalities. Wirtz's criminal conduct lasted for 4 years. He testified before the denazification board that he was asked by the plant management to beat people, and named several others who participated in the mistreatment, including an employee of the Krupp firm named Balz. One of the others involved by Wirtz testified that "it was general knowledge in the plant that the management tried to keep up with the work discipline by the most incisive measures, that is, even with physical maltreatment." He also testified that Balz who was "in charge" of the "plant" of the motor vehicle department and immediately subordinate to its head Roth who reported directly to the Vorstand did not do the beating himself, but he "instigated" others, including one Arens, to do so, and that if it hadn't been permitted, no one would have beaten the victims so brutally and that the plant managers would have done something about it. He also testified that the plant leaders sometimes watched while the people were being beaten. Wirtz, one of the many brutal employees, started in 1941 as a guard to bring the workers back and forth from work. He became a deputy commander of a Krupp camp in 1944. Direct knowledge of the indescribably savage treatment of these poor unfortunate workers was had by the defendants von Buelow, Ihn, and Lehmann.

In Repair Workshop 2, a Russian prisoner of war was killed in such a manner as to cause acute agony. The same person upon another occasion attempted to hang a Russian whose life was saved only through the intervention of the plant manager. No action was taken against the culprit. In Foundry 5, a Russian prisoner of war was beaten to death. At the boiler construction plant, a man who was in charge of guarding the Russian prisoners of war and the eastern workers, regularly abused them from the time of their arrival in 1942. Notwithstanding this, he remained in his position until shortly before the end of the war when he was transferred for his own protection because it was feared that the Russians might take revenge. The number of atrocities committed in the plants of the Krupp firm was such that it was a matter of common knowledge there. The defendants exposed persons to these conditions who had been illegally deported in the first place, who were kept in illegal servitude, and whom they themselves forced to manufacture the weapons to be used against their very brothers and sisters. One of the violently brutal employees of the Krupp firm was Hassel. He has been referred to before. His mistreatment of the eastern workers extended over the entire period of time during which they were employed at Essen. The beatings administered by him were carried out while performing his official duties. The defense has attempted to place the blame for the beating of the eastern workers on Hassel, and have claimed that he was retained out of fear of his political connections. This claim, made upon behalf of persons as prominent and influential as many of these defendants were, is not worthy of serious consideration. But Hassel was not alone involved in the inhumane conduct, constant terrorization of thousands of workers requires more than one man. The proof is clear that the defendant von Buelow, far from seeking to discharge Hassel, secured a raise in pay for him in 1943 and said, "in these recent months, Mr. Hassel was especially efficient." The beatings in the cellar were known to the members of the Werkschutz and the Enlarged Werkschutz II who brought the workers in for "instruction." They were known to secretaries who were employed in the building. Could they have been unknown to these defendants whose offices were in the same building?

The defendant von Buelow was the liaison man between the Krupp firm and the Gestapo. He witnessed beatings of prisoners of war in the guard room at the Krupp plant, and did not interfere. After an Italian prisoner of war was beaten in the cellar of the main administration building, he was taken to von Buelow's office.

The horrors of the concentration camp are well known. The Krupp firm was the beneficiary of these camps. The judgment of

the IMT described the use of concentration camp inmates for work as involving conditions "which made labor and death almost synonymous terms."

The utilization of concentration camp labor for the armament program was at first restricted to employment in armament plants by the SS, itself, within its camps. The first change in this system was inaugurated on 16 March 1942 on the basis of conferences at Hitler's headquarters, when it was announced that concentration camps [inmates] were to be used to a greater extent but only within the concentration camp themselves. Shortly thereafter, on 14 April, the defendant Erich Mueller made a proposal to Hitler for the setting up of a plant to produce automatic AA guns in a concentration camp, and the Krupp Auschwitz project was a part of this program. In September 1942, through the intercession of Hitler the employment of concentration camp labor in factories outside of cities was permitted, thus releasing other forms of labor for use inside the cities. The SS was offered a percentage share in the armament sales so that it would not sustain a loss by making its prisoners available. This program was not very successful, and very few concentration camp inmates were released for work in this way. It was finally provided that the SS should furnish information to the labor allocation authorities and armament offices concerning the allotment of concentration camp labor assigned to private firms, to avoid overlapping allocations which had previously occurred when firms obtained labor from the two agencies independently. In the early summer of 1944, the SS offered a large group of concentration camp inmates to the armament industry through the Speer Ministry. Approximately 50,000 to 60,000 so-called "Hungarian Jewesses" were made available. This labor was merely offered to industry, not allocated to it. It was not a matter of refusing to accept an allocation; it was up to the enterprises to put in requests. Many armament firms refused to request concentration camp labor for employment. The Krupp firm sought concentration camp labor because of the scarcity of manpower then prevailing in Germany.

The first efforts of the Krupp firm in 1942 directed at obtaining skilled labor through the concentration camps show clearly that the use of concentration camp labor was desired and not imposed by "necessity." The defense of necessity is otherwise dealt with. However, as the activities of the Krupp firm in procuring concentration camp labor are being dealt with here, these matters are now discussed.

On 17 September 1942, a message was sent to the Krupp firm at Essen, for the attention of the defendant Mueller, from a spe-

cial committee of the Speer Ministry, requesting information as to whether or not the Krupp firm could use skilled, foreign, Jewish labor, and whether it was in a position to erect a concentration camp to house them. A reply was sent by one Koettgen, acting for the Krupp firm, which stated that the employment of Jews in ammunition production was not possible, because of the requirement that Jews should work in a department by themselves, and also because cooperation of German workers with the Jews could not be expected. This reply was called to the attention of the defendants Mueller, Eberhardt, Korschan, Ihn, and Lehmann, and immediately thereafter a countermanding teletype message went out to the effect that 1,050 to 1,100 Jewish workers could be used if they were really skilled. The significant addition was made that, "after it is finally settled whether the employment is approved by the highest authority, we shall undertake to increase this number considerably." Notice of this was also sent to the defendants Mueller, Eberhardt, Korschan, Ihn, and Lehmann. Later efforts by the Krupp firm to obtain concentration camp labor were not qualified by the requirement that such labor must be skilled.

In 1942, the defendant Erich Mueller discussed the employment of concentration camp inmates with Hitler. The report of the AK–KM Departments for 1941–1942, signed by defendants Mueller, Eberhardt, and Pfirsch reads (*NIK–11504, Pros. Ex. 524*) :*

> "The second conference on 14 April 1942 took place in order to present to the Fuehrer new models, including the Krupp antitank gun 41 developed on the basis of experiences in the Russian campaign of 1941.
>
> "At the same conference, Dr. Mueller, on the basis of growing needs, referred to the Krupp firm's interest in starting shell production on a large scale in the Ukraine. This suggestion was gratefully accepted. Krupp is also interested in manufacturing automatic weapons in connection with a concentration camp in the Sudetengau. This project, too, has been taken up in the meantime by the technical office."

The week after, the defendant Mueller sent a teletype to Reiff who was employed by the Krupp firm in a responsible position, directing him to tell Colonel Leyers of the Army Ordnance Office that, in his opinion, a factory for the manufacture of 3.7 cm. antiaircraft guns should be set up in a concentration camp. The message reads as follows:

> "I should earnestly recommend to Colonel Leyers, as mentioned before, to take up the question of manufacture by Krupp

* Reproduced in part in section VIII B 1, above.

in the KZ in the Sudetengau and that also for the production of the automatons."

The efforts by the defendant Mueller to obtain the use of concentration camp labor were successful. However, instead of production taking place in a concentration camp in the Sudetengau, it was to be at Auschwitz in the Government General [Poland]. In July 1942, the Krupp firm was asked by the Main Committee Armament to indicate what machine tools it would need to erect a plant to build "replacement parts for 3.7 cm. antiaircraft guns at the Auschwitz concentration camp." On 9 September 1942 the formal request to the Vorstand for approval of the necessary funds was drawn up. It stated that while the automatic weapons developed by Krupp AK Department were a complete success, "we could not carry out mass production of the 3.7 cm. weapon developed by us" for lack of space, equipment, and manpower.

Another firm was accordingly entrusted with mass production. The Krupp firm, in order to retain some part in the production and in order to gain practical experience had accepted an order for supply and spare parts. In the application to the Krupp Vorstand it was also said, "we aim in this way at being able at some future date to take over the manufacture of the complete 3.7 cm. automatic weapon, as automatic weapons are the weapons of the future * * *." In order to ensure completion of this contract a factory was to be erected at Auschwitz. The same application to the Krupp Vorstand explicitly stated that, "the concentration camp at Auschwitz will place the required manpower at our disposal."

The proposal was for an allowance of two million marks; this was approved by the defendants Loeser and Krupp, and the approval of it was signed by them. A conference was held in December 1942, and additional plans were made to prepare for production. The defendant Eberhardt was to prepare an agreement with the SS. The buildings which were to be constructed by the SS at Auschwitz were expected to be ready by March 1943. On 5 March 1943, Essen was very heavily bombed and it was necessary to evacuate large portions of the plant. At a conference on 8 March 1943 concerning evacuation plans, attended by defendants Loeser, Alfried Krupp, Houdremont, Korschan, Erich Mueller, and Pfirsch, the following decision was made with regard to Auschwitz (*NIK–1157, Pros. Ex. 1181*):

"Auschwitz—The production of 3.7 cm. flak parts has apparently been dropped. A workshop building will soon be available there with a floor space of 14,000 square meters without cranes. This building is to be planned for the production of (a) aircraft

fittings and (b) a new fuse workshop, to replace the fuse shop in Essen that was burned out."

Minutes of the meeting were distributed to the defendant Eberhardt as well as those attending the meeting.

A special conference was held on 11 March 1943 to discuss the extent of the damage done to the fuse plant by bombing. This conference was attended by the defendants Houdremont, Korschan, Mueller, Eberhardt, and several of their subordinates from the technical office, KM Department, and fuse production departments. After discussing the possibility of salvaging some equipment of the bombed fuse plant, the plan to resume production on a large scale at Auschwitz was discussed and Reiff was authorized to submit this plan to the competent government officials. This was communicated to the latter by the Krupp Berlin office.

The plan was approved, and a confirmation of it in the form of a government order for 100,000 fuses was sent to the defendant Janssen in Berlin by the Army Ordnance Office. Later on, plans were made for the transfer of skilled, inmate labor to the fuse production program. In the meantime, it was not possible to start production immediately. The transportation and repair of machines took time, and when it was suggested to a Krupp employee by an army official that for several reasons only German workers should be used in the initial stages of production, the Krupp employee protested "that the main purpose of evacuating the plant to Auschwitz had been to employ the people there." This employee, Weinhold, feeling that the Krupp firm might lose some of the advantages to be had by operating a plant at Auschwitz, wrote a file note to his superior, the defendant Korschan. Notice of this was sent to the defendants Mueller and Eberhardt. In the file note Weinhold said,

> "Up to now it was always supposed that the supply of workers in Auschwitz is unlimited as regards quality and quantity. It might therefore happen in case of a belated start of production that the whole reason why we accepted the unusual difficulties which are present at Auschwitz, namely the free disposal over workers will no longer exist * * *."

In June 1943, the Krupp firm started to employ concentration camp inmates at Auschwitz. By the end of the month approximately 160 were actually working for the firm there. By the middle of July, 50 persons were engaged in the manufacture of equipment and tools, and another 150 on repairs and installation of machinery.

In September, 270 persons were employed, and it was contemplated that by the end of the year 600 to 650 people could be used.

These persons were of many nationalities, including Poles, Frenchmen, Czechs, and Dutchmen. The majority were of the Jewish religion. Many were in very poor physical condition. They were beaten and otherwise punished by SS guards and "Kapos," fellow inmates charged by the SS with the responsibility for disciplining them. The food furnished to them was meager, insufficient in both volume and nutrition value. Some of the German workers attempted surreptitiously to give them a little food.

The failure of the Krupp firm to obtain the necessary machinery to start full scale production caused incriminations on the part of the SS. They advised the Krupp firm that unless the necessary machinery was brought in, the shops would have to be turned over to other firms. The Krupp firm promised and endeavored to obtain the necessary machinery. The complaints about the firm's inability to get production started were brought to the attention of the defendant Houdremont. Assurances were given that production was imminent, and that full scale production, employing between 600 and 650 persons could be expected by the end of the year. The defendant Krupp wrote a letter to the Army Ordnance Office assuring that, despite many obstacles, satisfactory production of fuses could be expected to commence within a short time.

Before full scale production could be had, however, the offensive of the Russian Army had made unexpected progress. Reiff wrote to his superiors, the defendants Korschan, Mueller, and Eberhardt, that in his conversation with a representative of the Army High Command, "I immediately discarded any thought of giving up Auschwitz; I reserved any further decision until I could think things over." The Krupp firm, however, was forced to give up the plant at Auschwitz, and the machinery was shipped westward to the Bertha Works, where production was finally accomplished. The facts connected with Auschwitz clearly show not only the use of concentration camp labor, but also the desire to do so. They permit no opportunity for the conclusion that this labor was forced upon the Krupp firm.

The facts connected with the Bertha Works lead only to the same conclusion. Here again, it was not only known that concentration camp labor would necessarily be required to fulfill the program, but the fact of availability of such labor was used as a means for expansion. Among the projects for which compulsory labor camps were set up was the construction of the Krupp Bertha Works plant at Markstaedt, near Breslau.

In July 1942, when the effort by government agencies and

industry representatives for discontinuance of the Markstaedt project for light field howitzers had become formidable, Reiff prepared a memorandum for leading Krupp officials, including the defendants Krupp, Mueller, and Eberhardt, describing the discussions of this problem at a meeting presided over by Saur. Attached was an appendix containing the arguments in favor of continuing the project. It contained the following (*NIK–7445, Pros. Ex. 1111*) :*

> "The construction job is being carried out in particularly favorable conditions. The majority of the construction workers are prison inmates and Jews in punitive detention; 1,200 men have already been gathered in one camp there. The camp capacity is approximately 2,000 men. In addition an adequate number of construction workers will be made available by the SS so that the construction will be carried out with the greatest possible speed."

In September 1942 after Hitler had prevented the abandonment of the Markstaedt project, the defendant Mueller attempted to induce the navy to approve the inclusion of a large navy expansion project at Markstaedt for the furnishing of heavy naval guns and armor plate. In this connection, he used the following argument:

> "In this respect it appears to me propitious that presently a partial construction project for the army is already under way which might be completed in the next spring as far as mere construction goes. It is advisable to leave the building details of organization Todt on the spot which are now carrying out these constructions and to start then right away with building the navy shops. This will presumably be facilitated by the fact that the manpower employed on the present building job is not a domestic one (mostly Jews) thus precluding the freezing of valuable German manpower."

The labor used for the construction of the Krupp owned Bertha Works consisted almost entirely of imprisoned Jewish labor, deported from the so-called Government General in Poland. They were guarded by the Wehrmacht. They worked for building contracting firms under the supervision of the Plenipotentiary for Building Construction in the Speer Ministry. About 4,000 of them were assigned to the construction of the Krupp plant by July 1943. Because of the needs for this labor on the construction work, it was decided that the labor could not be transferred to production at that time.

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* Reproduced above in section VIII B 1.

The monthly report of Bertha Works A.G. to its supervisory board in Essen for November 1943 reported that, "serious labor losses are threatened for the building sector owing to the withdrawal of the Jews." In the report for the following month it was possible to report that (*NIK–7247, Pros. Ex. 1124*)—

> "As a result of negotiations with the [SS] Security Main Office (Sicherheitshauptamt) approval was obtained for continuing to keep the Jews in the building sector for the time being, without transferring them to concentration camps as originally had been proposed for the Jews of the building sector."

The Direktorium of Fried. Krupp in Essen applied to the Reich Association Iron [RVE] for approval of a plan for the starting of construction on a steel works at Markstaedt. In the application it was stated, in referring to the sources of manpower available—"before long 3,300 Jews who are working on the spot as building workers can be released for the above-mentioned work."

In the monthly report of Bertha Works A.G. to the Aufsichtsrat in Essen for the month of March 1944, the following appears (*NIK–12338, Pros. Rebuttal Ex. 1582*):

> "*Armament Development Speer.*
>
> "In spite of our urgent remonstrances Mr. Ewald of the Armament Development [Ruestungsaubau] Speer declared that no partial accounts on the work of the armament development already completed could be given due to lack of personnel. In order to prevent a transfer of the Jews who work with the Speer Building Management the Bertha Works negotiated for having the Jews put in the concentration camp Fuenfteichen. Thereby a better supervision of the allocation of labor (of the Jews) can be achieved in future. Construction work outside of the plant compound was temporarily endangered by these measures. However, by internal plant regulations and through negotiations with the Building Management Speer, the question could essentially be cleared up."

In this report it was stated that interruption in the construction of a hospital was reported "because some of the Jews employed as building laborers were, as mentioned above, transferred to the concentration camp." This hospital was built and construction labor was supervised by the Krupp firm itself and not by the Speer Ministry construction staff.

Again, in the monthly report of the Bertha Works for July 1944, reference is made to negotiations which took place with the armament command concerning the use of 500 Jews for track laying on the firing range. The defendant Korschan attended a

conference at which the urgent need for labor was discussed. In a memorandum to the defendant Mueller, Reiff stated, "in advising that the Army Ordnance Office did not make labor available for the Krupp light field howitzer program," but that he was confident that he could obtain the necessary labor. He said, "a concentration camp for 4,000 inmates is being constructed. The completion of this camp and the procurement of the inmates should be speeded up particularly * * *."

At a discussion with Mueller, the need for a decision as to "whether possibly Jews from the building sector and, in general, concentration camp inmates, should be employed in greater numbers in the workshops," was discussed. At a meeting on 26 August 1944 at Berthawerk, attended by the defendants Mueller and Korschan, the question of labor for production was discussed, and it was suggested that a certain reserve should be observed in putting concentration camp inmates at the disposal of the plant. The defendant Mueller urgently recommended the use of this possibility. Minutes of this meeting were distributed to defendants Pfirsch, Eberhardt, and Ihn.

In a letter, dated 31 August 1944 from Berthawerk to the Krupp Vorstand in Essen, the labor problem was presented to the Vorstand. The labor needs were listed, and it was stated that approximately 6,000 workers would have to be furnished from the regional labor office and from concentration camps. In the letter, the necessity of acting quickly was emphasized, because of the possibility that if work shops were not fully utilized, visiting officials "might conceive the idea of bringing outside firms into our workshops." The letter was signed by defendant Korschan and also by Reiff. It was addressed to defendant Krupp, chairman of the Vorstand, through defendant Mueller, and was circularized to defendants Janssen, Houdremont, and Ihn before a discussion of the Vorstand meeting. Defendant Mueller promised to give the views expressed extensive support. When the Vorstand gave its approval to the utilization of concentration camp labor, Reiff contacted the WVHA (the SS Economic and Administrative Main Office) to negotiate for the allocation of concentration camp labor. The matter was referred to the concentration camp "Gross-Rosen." At a conference at Berthawerk with SS representatives of this concentration camp, plans were made to equip the branch camp at Fuenfteichen for the inmates as rapidly as possible so as to accommodate 800 by 10 October 1943, 2,300 by 15 October, and 4,000 including guards by 1 December 1943. The work was to be performed by inmates of the camp. Minutes of this meeting were distributed to defendants Korschan, Houdremont, Mueller, and Ihn.

The desire for a large project at Markstaedt was so great that the Krupp firm was willing to, and did spend, up to 30 November 1943, 69,400,000 RM as shown by the monthly report of the Berthawerk, A.G. for the month of November 1943. This report was signed by the defendant Korschan, was marked "confidential" and was sent to the defendant Krupp. Copies were also sent to the defendants Mueller, Houdremont, Janssen, Eberhardt, and Ihn. The report contained the following:

	Expenditure up to 31 October 1943	Expenditure in November	Expenditure up to 30 November 1943
Real estate	2.0 million	0.2 million	2.2 million
Payments in advance.			
Organization Speer	25.0 million		25.0 million
Machines and inventory.			
a. payment	14.7 million	1.1 million	15.8 million
b. payment down	3.2 million	1.0 million	4.2 million
Starting and operating costs.	19.5 million	2.7 million	22.2 million
	64.4 million	5.0 million	69.4 million

This expenditure was covered as follows:

Use of that part of the share capital at present paid in to the amount of	RM 28,750 million
Part payment made from credit granted by Heeresruestungskredit A.G. to the amount of was likewise completely used up;	RM 20,000 million
The balance of the amount needed was covered by means of a deposit loan with Fried. Krupp A.G.; the balance which our account owes Fried. Krupp A.G.—according to the vouchers which reached us—amounts to approximately	RM 20,650 million
	RM 69,400 million

In a letter written by the defendant Krupp, on or about 18 January 1944, he stated that thereafter the defendant Korschan would be chairman of the Berthawerk Vorstand.

By the end of October, there were almost 600 concentration camp inmates in the production labor force. In November the number increased to 685 and to 890 by December. In its application to a government agency, dated 2 February 1944 for the construction of a steel factory at Markstaedt, the Krupp firm gave as one of the reasons for approving the new construction the following (*NIK–12342, Pros. Ex. 1125*):

> "The chief thing is that there is a concentration camp ready to receive 4,000 to 5,000 concentration camp internees. At present this is occupied by only 1,200 men."

It was pointed out that the use of concentration camp labor is feasible because of the outlying position of the steel works and that operations could be started within 1 year after permission was granted. It was pointed out also that these things could not be done "unless, in addition to the building workers available at Markstaedt, concentration camp internees to the extent of about 1,000 men are provided." A companion application filed the same day for construction of a rolling mill referred to the availability of concentration camp labor "as mentioned in connection with the steel works."

In April 1944, when the Krupp firm had regained control over all phases of production, 1,668 concentration camp inmates were employed at Bertha Works. By July of that year, the number had increased to 2,610. In October of that year, Bernhard Weiss of the Flick firm estimated on his visit to Bertha Works, that approximately one-half of the total labor force of 12,000 consisted of concentration camp inmates.

After the SS commandant at Gross-Rosen complained because of Krupp's failure to cooperate fully, the defendant Houdremont agreed to make a trip to Bertha Works in the near future to clear up the matter, and he instructed a member of the Bertha Works staff to keep in very close touch with the SS so that difficulties would be straightened out as they arose. The defendant Korschan, at the request of the defendant Houdremont, investigated the differences of opinion between the Bertha Works staff and the SS concentration camp administration at Fuenfteichen, and reported in detail to the defendant Houdremont on these matters a few days later.

The first group of concentration camp inmates used in the production program at Bertha Works were inspected at the camp Gross-Rosen before being sent to the special camp at Fuenfteichen by Krupp employees of the firm's labor allocation department. They were in a bad state of health, and some of them could not walk at all without aid, so that when going to and from work,

they had to be supported by fellow workers. It took them 50 minutes to walk from the camp to work in the Bertha Works shops in the footgear furnished by the SS, consisting of either broken wooden clogs, or rags wrapped around the feet. The inmates worked without any morning meal, and for 12 hours with only one bowl of soup which they received at noon. Their food was so poor that they sought remains of food and begged for scraps of food. They fought each other for the left-over soup, which the other foreign workers had left or rejected despite the limited amount of food made available to them. A doctor employed by the Krupp firm who observed the poor appearance of the concentration camp inmates employed, reported that:

> "In spite of all efforts we could not change in detail the system of the work to be done by the concentration camp detainees, which was really responsible for the bad state of the detainees."

Notwithstanding the very poor health and the weakness of the concentration camp inmates, they had to continue to work and to produce armaments for the Krupp firm. An illustration of the mistreatment of these unfortunate concentration camp inmates while working in the Bertha Works is contained in the testimony of a Czech worker. This, in part, is as follows:

> "Q. Can you say who beat these people, who beat these Jews and for what reasons?
>
> "A. Yes, I can say that. For instance, at lunch time when soup was distributed during lunch to the Jews, the Jews pressed forward with their cups. The person who distributed the soup pushed the Jews back or beat them, or he told the guard who stood there to beat the Jews. That soldier then hit the Jews with the butt of his rifle."

The inmates were also beaten because they did not properly perform the work to which they were assigned, as a result of not knowing how to work the machines. The beatings administered to them by the supervisors was with a whip made of iron with rubber. Conferences were had between the competent plant managers and the members of the SS during which the matter of punishing the concentration camp inmates was discussed.

The housing furnished to the concentration camp inmates was most inadequate, and the lives of the inmates were in danger as the plant was not furnished with proper air raid shelters for the workers. During air raids, the concentration camp inmates had to remain in the plant while other employees were permitted to leave it.

The situation at the Berthawerk again leads to the conclusion that the Krupp firm planned its own program upon its desire to use concentration camp labor.

After the production of fuses at Auschwitz had been taken away from the Krupp firm, immediate efforts were made to select a new site for the production of fuses by the firm. The advantage of having allotted to it the use of a concentration camp near Lublin because of the immediate availability of labor was considered. At a conference of Krupp personnel in the artillery development office attended by the defendants Houdremont and Eberhardt, the possibility of locating the fuse production plant at Wuestegiersdorf in Silesia was discussed and considered. Production of fuses there was taken up and approximately 200 female concentration camp workers were assigned in the summer of 1944. All of these concentration camp inmates were Jewish. They were of Hungarian or Yugoslavian nationality. These women were not allocated by the local labor office; they were procured as a result of negotiations carried on by Weinhold and other plant leaders of the Krupp firm with the SS.

The work shops used for the production of mining machinery at the Gusstahlfabrik in Essen were destroyed in 1943, and thereafter a transferred plant was established at Geisenheim on the Rhine. Later, the production of breeches for antiaircraft guns was also transferred to this plant. In the summer of 1944, the management of the Geisenheim plant had advised the defendant Eberhardt who was responsible for its supervision, that they desired concentration camp labor as such workers were then being made available by the SS to the armament industry. The defendant Eberhardt consulted with the defendant Janssen, his superior, on this matter, and thereafter approved an application for such allocation by the Geisenheim management.

On 5 July 1944, a conference was held in the office of the defendant Ihn concerning the use of concentration camp labor. Concentration camp workers consisting of Hungarian and Polish women of the Jewish faith were employed at the Krupp Geisenheim plant until March 1945, when they were taken to the interior of Germany, in view of the advance of the Allied troops into that area.

Despite the shortage of labor at the ELMAG plant, as a result of which difficulty was had in meeting production schedules for military tractors, efforts were unsuccessfully made to obtain orders for the production of Tatra motors, designed by another firm. The competent government official indicated that he preferred to give orders to firms who had labor available, rather

than to a plant where a great many workers were still needed. A Krupp representative at Berlin sent a teletype to ELMAG that he had succeeded in obtaining the approval of one of the members of the Main Committee Motors, for the production of T-motors by the ELMAG plant. The teletype was transmitted to the defendant Eberhardt. It was as follows:

> "So Mr. Schnieders asks us to treat the whole matter but above all his discussion with Mr. Vorwig as confidential in order not to annoy the Main Committee. The labor question connected with the motor problem was also mentioned. Mr. Schnieders has contacted Oranienburg concerning concentration camp inmates and he will give more detailed information tomorrow."

Two days later, defendant Eberhardt received another teletype from ELMAG on the machinery needs and the labor requirements for the production of T-motors. The labor needs were estimated at 1,250 workers, to be furnished by the use of concentration camp inmates. Some concentration camp inmates did arrive at ELMAG. They were to construct a concentration camp within the plant grounds to accommodate over 1,000 workers. These concentration camp inmates did not remain long at ELMAG. The monthly report for August 1944, sent to defendant Eberhardt and copies of which were sent to defendants Krupp, Houdremont, Mueller, and Janssen noted that, "for security reasons the first contingent of KZ inmates allotted to us was again removed from the factory. The KZ operation has been stopped." At that time, the Allied troops were approaching the city.

Two months later, the plant known as Krupp Krawa was evacuated from Alsace to Germany and reestablished in Nuernberg and Kulmbach as the Suedwerke. On 14 December 1944, defendant Eberhardt made a record in his notes of a meeting with the management of Suedwerke that "the Suedwerke hoped to be allocated 1,250 concentration camp prisoners." A month later, the director of Suedwerke, Hupe, was arranging for billeting the SS guards for concentration camp inmates at Kulmbach. In the summer of 1944, defendant Ihn, after consulting with the Direktorium, sent defendant Lehmann to the offices of the WVHA (the SS Economic and Administrative Main Office) at Oranienburg, to arrange for the allocation of concentration camp inmates to the Krupp firm in Essen. Lehmann reported that at Oranienburg he was informed that concentration camp Buchenwald was the camp to which they should apply, and that they should get in touch with that camp.

The defendants Ihn and Lehmann started negotiations imme-

diately with the commander of the Buchenwald concentration camp. They were joined at various times at conferences by the defendant Houdremont during the course of these negotiations. The defendants Krupp, Houdremont, Janssen, Mueller, and Eberhardt were informed of the progress of the subsequent negotiations.

Pister, the commander of the Buchenwald concentration camp, visited the Krupp firm at Essen on 4 and 5 July 1944, to discuss the request for 2,000 concentration camp inmates made by the Krupp firm. He advised the Krupp representatives that he could allocate 2,000 female concentration camp inmates to them. They discussed the question of getting 2,000 male concentration camp inmates. Pister approved the selection by the Krupp firm of the camp at Humboldtstrasse which was then being used for the confinement of Italian military internees, upon the condition that Krupp would provide the inmates with street car transportation to and from the place of work because of the very poor footwear of the inmates. Krupp's firm was to pay the sum of 4 RM per day to the SS for the use of this labor—it must be added here that concentration camp workers received no pay at all—and was to furnish blankets, eating utensils, and work clothes for dirty labor. Also it was agreed between Pister and the defendant Kupke that the Main Camp Administration of the Krupp firm assumed the responsibility for furnishing food and food preparation, whereas the guard personnel, administrative staff, and medical personnel was to be furnished by the SS.

Shortly thereafter, the SS advised the Krupp firm that only female concentration camp inmates could be furnished. One Trockel, a subordinate of defendant Lehmann in Labor Allocation A was dispatched by defendant Ihn to a factory at Gelsenberg, where 2000 female concentration camp inmates were employed, to look over the workers. Trockel reported thereafter that, in his judgment, the women were unsuitable since they appeared too frail and weak for heavy work. On 26 July 1944, Schwarz, a representative of the commander of the Buchenwald concentration camp, visited the Krupp firm at Essen to discuss the employing of female concentration camp inmates. Schwarz stated that the camp was too spacious, and for security reasons only five barracks and a few slit trenches should be wired off to form the camp. He also inspected the plants in which the Krupp firm had planned to use concentration camp labor, and approved only Rolling Mill II and the electrode shop as meeting the standards of the SS for segregation of the foreign workers. As not less than 500 women would be assigned by the SS, the Krupp firm agreed to take this number. Steps were taken within the Krupp administration to use them in accordance with security requirement of

the SS. As part of the agreement, the Krupp firm was to furnish the names of German women who would be sworn in to the SS and given 3 weeks' training at the women's concentration camp at Ravensbrueck and then assigned as guards for these concentration camp inmates. The Krupp firm recruited these guards within its own organization. Some difficulty was encountered and the plants were circularized to obtain the full quota. The names were finally obtained through recruitment in the Krupp plants and as a result of the efforts of the Krupp personnel office. These women were to have special training in the diabolical methods of the SS.

Krupp employees, including one from Labor Allocation A and plant leaders of the shops in which the concentration camp inmates were to be employed, went to Gelsenberg and selected 520 women from the 2,000 available there for employment at Krupp. Final negotiations for the allocation of this labor and transportation to Essen were made by the defendant Lehmann and his subordinates.

The 520 female concentration camp inmates ranged in age from 15 to 25 years. Some of them were students. They were members of the Jewish faith and because of their religion had been selected and forcibly removed in May 1944, together with their families, from their homes in Czechoslovakia, Rumania, and Hungary and transported to the infamous Auschwitz concentration camp in Poland. The Czechs, about 50 percent of the total of 520, had lived in the area of Czechoslovakia which was turned over to Hungary by Germany after its occupation of Czechoslovakia. At Auschwitz, they were stripped of all their possessions and their clothing was replaced by a single issue of sack-like grey garments made of burlap and wooden clogs with fabric tops. Parts of their heads were shaved. Many of their family members were gassed in Auschwitz. From Auschwitz, the women were shipped to a camp at Gelsenberg, a short distance from Essen, which was under the control of the commander of the Buchenwald concentration camp. Here the Krupp officials selected the 520 inmates shipped to Essen. They were referred to as "Hungarian Jewesses."

The camp at Humboldtstrasse used for housing these concentration camp inmates consisted of four sleeping barracks and a building referred to as the kitchen in which food was served and eaten by the inmates. The camp also included an air raid trench which was designed to protect the inhabitants against fragments and splinters but was completely without value as a protection against heavy bombs. The camp was surrounded by barbed wire, and guarded by guard towers manned by members of the SS, to prevent the inmates from escaping.

The barracks were burned down in an air raid on 25 October 1944. The former kitchen building was patched, and the entire population was then crowded into this building where they lived, notwithstanding the fact that rain leaked in. The inmates slept upon a little straw on the floor. The washroom facilities were destroyed and not replaced. During another air raid on 31 December 1944, this building was hit, and thereafter the entire population lived in the cellar of this bombed out building where it was damp and cold and ventilation was poor. Stoves could not be used. The inmates carried planks to the cellar and spread insufficient straw on the planks. They did not have two blankets per person as prescribed by the SS. Only one blanket was furnished by the Krupp firm. This the girls had to use not only as their sole item of bedding, but also to protect them against the cold and rain during the long marches to and from the plant and while at work. Washing facilities were no longer available, and practically no sanitary facilities were available at the camp. These conditions continued until March 1945, when the girls were evacuated from Essen. Although these conditions were known to all responsible parties, no efforts were made to provide other accommodations or to rebuild any of the buildings within the camp.

Only one meal was served each day at the camp. It was served to the day shift after they returned to the plant, and to the night shift before their departure to the plant. The meal consisted of soup and bread, supplemented with margarine or marmalade. On one occasion the authorities at the Buchenwald concentration camp instituted an inquiry as to the failure of the Krupp firm to furnish the sugar which it should have provided to the prisoners. A plant meal, called "bunker soup" was given at about noon time to the day shift workers during the first few weeks. After the heavy air raids in October 1944, plant meals were no longer furnished. No supplementary ration was ever given to the night shift workers. Some of the German employees, out of pity for the "Hungarian Jewesses" because of the insufficiency of food, surreptitiously gave some to them.

The SS furnished coats with distinguishing colored patches to the girls. Torn pieces of blankets were wrapped around the feet and legs of some of the girls. Inmates were required at times to walk barefooted, as many of them possessed neither stockings nor foot rags, and there were numerous cases of frozen feet and chilblains. Some of these girls were required to carry bricks and metal sheets without gloves or other protection.

Because of the requirements prescribed by the SS in permitting the employment of concentration camp inmates by the Krupp firm,

the latter arranged with the Essen street railway company for open "summer" cars for transportation between the camp and the plants. This transportation was furnished until 23 October 1944 when the particular line used was destroyed in an air raid. After that, the inmates marched to work under guard through the streets of Essen. The largest number of girls were employed in Rolling Mill II. This was at least a mile and a half from the camp. The girls were awakened at 4 o'clock in the morning. A roll call was had at 4:30 a.m. They started work at 6:00 a.m. and the working hours were long for both the day shift and the night shift. On Sunday the working hours were shorter.

After production in many of the Krupp plants at Essen was prevented because of air raids, the concentration camp inmates were put to work in moving rubble and carrying building material for the reconstruction of the plant. The principle task was the carrying of bricks and iron roofing sheets. The women SS "supervisors" slapped and kicked the girls if they slowed down in their work. They were deprived of food as punishment, and their hair was closely cropped or shaved in the form of a cross. The selection of work, the amount of work and the supervision of it was decided by the Krupp firm. The plant leaders and foremen fixed the work tasks. Work discipline was enforced by Krupp supervisors and by their giving instruction for punishment to the SS "supervisors." The mistreatment of these girls was a matter of common knowledge in the firm.

At Rolling Mill II, where many of them were employed, a room was made available to them as an air raid shelter. They were not permitted to use the shelter to which all German personnel went during air raids, except on a few occasions at night when the size of the staff was reduced.

In February 1945, a subordinate of the defendant Lehmann in Labor Allocation A learned that the SS did not plan to permit the concentration camp inmates to remain alive and thus be liberated by the advancing American troops. He advised his superior, the defendant Lehmann of this plan, and also the members of the Direktorium. After a discussion of this matter by the Direktorium, defendant Janssen advised defendants Ihn and Lehmann of the decision of the members of that body to have these concentration camp prisoners removed from Essen. Defendant Ihn then directed defendant Lehmann to arrange for their shipment back to Buchenwald. Lehmann ordered a member of his staff to assist in providing a train for the shipment of these girls back to Buchenwald. On 17 March 1945, the girls were marched to Bochum. There a train was made up for them and 1,500 male concentration camp inmates. They were shipped eastward under

SS guards. With the exception of a few who had escaped shortly before—and two of them, the Roth sisters, were able to appear as witnesses before this Tribunal—nothing further has been discovered about the fate of the young "Hungarian Jewesses" of the Krupp firm.

LAW ON THE DEPORTATION AND EMPLOYMENT OF FOREIGN CIVILIAN WORKERS AND CONCENTRATION CAMP INMATES

It is contended that the forcible deportation of civilians from occupied territory was perfectly lawful. The argument made in this connection by the ostensible leader of defense counsel needs an answer, if for no reason other than to indicate the nature of the principal defenses upon this phase of the case.

The substance of the argument is as follows: "There exists in the Hague Rules of Land Warfare no provision explicitly prohibiting the use of manpower from occupied territories for the purpose of war economy. Article 48 is certainly not conclusive * * * . Reference to international common law is not more conclusive. For the only case in modern history, the conscription of Belgian labor during the First World War has remained a completely open question as regards its admissibility under international law."

It is, therefore, insisted that the prosecution's position with respect to wholesale deportation on a compulsory basis of members of a civilian population of occupied territories "is based on a fundamental misconception of the first rule of war, viz, that measures necessary for achieving the purpose of war are permissible unless they are expressly prohibited, and that methods required for achieving the purpose of war are determined by the development of war into total war, especially in the field of economic warfare."

In principle this is the same argument made in connection with the asserted proposition that the concept of total war operated to abrogate the Hague Rules of Land Warfare. But the reference to the deportation of Belgian labor to Germany during the First World War requires an additional answer, if for no other reason than to keep the record straight.[1] That the crime, on the part of imperial Germany, caused world wide indignation.

The deportations began after the German Supreme Command had issued its notorious order of 3 October 1916,[2] "concerning

[1] Oppenheim (Lauterpacht), International Law, 5th Edition (London, 1935), page 353.
[2] American Journal of International Law (April, 1946), volume 40, page 309.

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restrictions of public relief." Shortly prior thereto the Reich Chancellery had declared in an expert opinion that " 'under the law of nations, the intended deportation (Ausschiebung) of idle (arbeitsscheue) Belgians to Germany for compulsory labor can be justified if (*a*) idle persons became a charge of public relief; (*b*) work cannot be found in Belgium; (*c*) forced labor is not carried on in connection with operations of war. Hence, their employment in the actual production of munitions should be avoided.' "

The obvious subterfuge lies in the fact that the measure was ostensibly directed against vagrants to combat unemployment in Belgium as an economic measure. But no one was deceived by this pretense and it was soon abandoned in a manner which indicated an awareness of the illegality of the procedure.

The protests were so wide spread and vigorous that the Kaiser was forced to retreat. These protests were based upon either the general principles of international law and humanity or specifically upon the Hague Regulations. For instance, the United States Department of State protests "against this action which is in contravention of all precedent and of those humane principles of international practice which have long been accepted and followed by civilized nations in their treatment of noncombatants in conquered territory."[1]

The protest of the Netherlands Government pointed out the incompatibility of the deportations with the precise stipulations of Article 52 of the Hague Regulations. It was pointed out by Professor James W. Garner, scholar and author of high repute, that if "a belligerent were allowed to deport civilians from occupied territory, in order to force them to work in his war industries and thereby to free his own workers for military service, this would make illusory the prohibition to compel enemy citizens to participate in operations of war against their own country. 'The measure must be pronounced as an act of tyranny, contrary to all notions of humanity, and one entirely without precedent in the history of civilized warfare.' "[2]

Negotiations through diplomatic and church channels to repatriate the deportees and stop the practice were partially successful. From February 1917, Belgians were no longer deported from the Belgian "Government General" and the Kaiser promised that by 1 June 1917, deportees who would not volunteer to remain in Germany would be repatriated.

Nevertheless, long after the end of the First World War, the unsuccessful effort of the Kaiser's government was to an extent

[1] Hackworth, G. H., Digest of International Law (United States Government Printing Office, Washington, D. C., 1943), volume VI, page 399.

[2] American Journal of International Law (January, 1917) volume XI, page 106.

upheld in Germany. A parliamentary commission created by the German Constituent Assembly to investigate charges made against that nation of having violated international law during the war by a majority report[1] submitted 2 July 1926, stating that the deportations had been in conformity with the law of nations and, more particularly, with the Hague Regulations. The report proceeded upon the theory that "the workers in question did not find sufficient opportunity to work in Belgium and that the measure was indispensable for reestablishing or maintaining order and public life in the occupied territory." The Belgian Minister of Foreign Affairs expressed the sentiment of the civilized world when he declared that his country had erred in its belief "that at least on this point, the war policy of the Kaiser's government would no longer find defenders."[2] And it should be noted in this connection that even a minority of the German parliamentary commission above-mentioned found no justification for the practice and upon the other hand, squarely condemned it.

It is apparent, therefore, that learned counsel's contention that "the conscription of Belgian labor during the First World War has remained a completely open question as regards its admissibility under international law," is based upon the fact that a majority of a committee appointed by the parliamentary body of Republican Germany found it to be in accord with the law of nations. We think it must be conceded that this is at least rather thin ground upon which to establish a negation of international customary law. However this may be, it is certain that this action by the majority of the committee of the German body did not operate to repeal the applicable Hague Rules of Land Warfare, particularly Article 52, which in the present case was shown beyond doubt to have been violated. Deportees were not only used in armament production in the Krupp enterprise, but in the latter years of the war the production of armament on a substantial scale reached could not have been carried on without their labor.

This was not only a violation of the Hague Rule of Land Warfare but was directly contrary to the expert opinion of the Reich Chancellery hereinabove referred to which preceded the order of the German Supreme Command of 3 October 1916, for the deportation of Belgians. As above indicated, that opinion, though providing a subterfuge for the illegal conduct, did annex as one of the conditions "that forced labor is not carried on in connection with operations of war * * *. Hence their employment in the actual production of munitions should be avoided."

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[1] American Journal of International Law (April, 1946) volume 40, page 312.

[2] Belgian Chamber of Representatives, session 14 July 1927. Documents Legislatifs, Chambre des Representants, No. 336. Passelecq, pages 416–433.

The law with respect to the deportation from occupied territory is dealt with by Judge Phillips in his concurring opinion in the United States of America *vs.* Milch decided by Tribunal II.* We regard Judge Phillips' statement of the applicable law as sound and accordingly adopt it. It is as follows:

"Displacement of groups of persons from one country to another is the proper concern of international law in as far as it affects the community of nations. International law has enunciated certain conditions under which the fact of deportation of civilians from one nation to another during times of war becomes a crime. If the transfer is carried out without a legal title, as in the case where people are deported from a country occupied by an invader while the occupied enemy still has an army in the field and is still resisting, the deportation is contrary to international law. The rationale of this rule lies in the supposition that the occupying power has temporarily prevented the rightful sovereign from exercising its power over its citizens. Articles 43, 46, 49, 52, 55, and 56, Hague Regulations which limit the rights of the belligerent occupant, do not expressly specify as crime the deportation of civilians from an occupied territory. Article 52 states the following provisions and conditions under which services may be demanded from the inhabitants of occupied countries.

"1. They must be for the needs of the army of occupation.

"2. They must be in proportion to the resources of the country.

"3. They must be of such a nature as not to involve the inhabitants in the obligation to take part in military operations against their own country.

"Insofar as this section limits the conscription of labor to that required for the needs of the army of occupation, it is manifestly clear that the use of labor from occupied territories outside of the area of occupation is forbidden by the Hague Regulations.

"The second condition under which deportation becomes a crime occurs when the purpose of the displacement is illegal, such as deportation for the purpose of compelling the deportees to manufacture weapons for use against their homeland or to be assimilated in the working economy of the occupying country.

* * * * * * *

"The third and final condition under which deportation becomes illegal occurs whenever generally recognized standards of decency and humanity are disregarded. This flows from

* United States *vs.* Erhard Milch, Case 2, Volume II, pages 865 and 866.

the established principle of law that an otherwise permissible act becomes a crime when carried out in a criminal manner. A close study of the pertinent parts of Control Council Law No. 10 strengthens the conclusions of the foregoing statements that deportation of the population is criminal whenever there is no title in the deporting authority or whenever the purpose of the displacement is illegal or whenever the deportation is characterized by inhumane or illegal methods.

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"Article II, paragraph 1(*c*) of Control Council Law No. 10 specifies certain crimes against humanity. Among these is listed the deportation of any civilian population. The general language of this subjection as applied to deportation indicates that Control Council Law No. 10 has unconditionally contended as a crime against humanity every instance of the deportation of civilians. Article II, paragraph 1(*b*) names deportation to slave labor as a war crime. Article II, paragraph 1(*c*) states that the enslavement of any civilian population is a crime against humanity. This Law No. 10 treats as separate crimes and different types of crime 'deportation' to slave labor and 'enslavement.' The Tribunal holds that the deportation, the transportation, the retention, the unlawful use and the inhumane treatment of civilian populations by an occupying power are crimes against humanity."

In connection with the subject of deportation of civilians from occupied territory, it is interesting to note that as shown by a document introduced by the defense, General Thoenissen was dismissed from the service by the High Command during World War II because of his "refusal to violate" the laws of war and to deport French workers to Germany.

The deportation of Belgians to Germany also was over the vigorous protests of the military commander in Belgium, General von Falkenhausen. With reference to Sauckel's order introducing a compulsory labor service for the Belgians, he deposed that "this was done against my explicit and constant protest for I had various objections against a compulsory labor allocation and considered it more important to keep the indigenous economy in motion."

That the employment of concentration camp inmates under the circumstances disclosed by the record was a crime there can be no doubt. The conclusion is inescapable that they were mostly Jews uprooted from their homes in occupied territories and no less deportees than many of the other foreign workers who were forcibly brought to Germany. The only difference was that they

had to go through all of the horrors of a concentration camp under the supervision of the SS before they finally landed at the firm of Krupp. That these persecutees had been arrested and confined without trial for no reason other than that they were Jews is common knowledge and in fact not controverted. The subject is dealt with exhaustively by the judgment of the IMT and there is no need to add anything to what is there said to show the unspeakable horrors to which these unfortunate people were subjected. However, in the present connection, one or two excerpts from the judgment are pertinent. It is there recited that "the Nazi persecution of Jews in Germany before the war, severe and repressive as it was, cannot compare, however, with the policy pursued during the war in the occupied territories."[1]

After referring to the fact that in the summer of 1941, however, plans were made for the "final solution" of the Jewish question in all Europe, the judgment[2] continues: "Part of the 'final solution' was the gathering of Jews from all German occupied Europe in concentration camps. Their physical condition was the test of life and death. All who were fit to work were used as slave laborers in the concentration camps * * *." The "final solution" meant extermination.

Under the facts of this case it is obvious from what has been said as to the law that the employment of these concentration camp inmates was also a violation of international law in several different particulars.

In this connection it is argued that the defendants had scant knowledge of the persecution of the Jews by Nazi leaders. This can be justly characterized as no more than a gesture. The fact was common knowledge not only in Germany but throughout the civilized world. Whether this was true in all the horrifying and gruesome details is immaterial to the legal question.

Moreover, apart from the fact that the Krupp activities at Auschwitz hereinabove detailed gave ample opportunity to know the true situation, there is evidence introduced by the defendants which directly refutes the contention that the officials of the firm lacked knowledge of the persecution of the Jews on racial grounds. Among other items is the affidavit of Mickenschreiber. It was offered along with other documents to show that the officials of the firm were not in accord with the attitude of the Nazi regime toward Jews. But it shows also that without doubt they knew of that abominable policy as early as 1936. The affidavit shows this so conclusively that it is worthwhile to quote from at some length.

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[1] Trial of the Major War Criminals, op. cit. supra, volume I, page 249.

[2] Ibid., p. 251.

After deposing that one Robert Waller had been in the service of the firm as an electrical engineer for 20 years, the affiant continues (*Ihn 51, Def. Ex. 2767*):

> "From 1936 on, his working associates brought pressure to bear on the firm, because of his non-Aryan descent (Mr. Waller is Jewish) with the aim of having Waller dismissed. Mr. Ihn did not yield to the demands of the employees, however. At his behest Mr. Waller was given protection by designated persons, who always intervened on his behalf, shielded him in the campaign of persecution against him, and later provided him with a special place of work apart from the other workers. Furthermore, thorough-going efforts were made to find a position abroad for him. On 9 November 1938, the day of the general persecution of the Jews in Germany, the employees as well as the Vertrauensrat [*Employees' Council*] at the time categorically demanded the immediate dismissal without notice of Mr. Waller. According to this there was no longer any possibility of retaining Mr. Waller. However, without the persons in power knowing of it, by order of Mr. Ihn, Mr. Waller was paid a lump sum, corresponding to his salary which he would have received had he been given regular notice (about 8 months' salary), in order to enable him to emigrate, as he was contemplating doing. Moreover, after the war the personnel manager made amends to Mr. Waller, in a manner which met his satisfaction, for the wrong done to him at the instigation of working associates."

NECESSITY AS A DEFENSE

The real defense in this case particularly as to count three, is that known as necessity. It is contended that this arose primarily from the fact that production quotas were fixed by the Speer Ministry; that it was obligatory to meet the quotas and that in order to do so it was necessary to employ prisoners of war, forced labor, and concentration camp inmates made available by government agencies because no other labor was available in sufficient quantities and, that had the defendants refused to do so, they would have suffered dire consequences at the hands of the government authorities who exercised rigid supervision over their activities in every respect.

The defense of necessity was held partially available to the defendants in the case of the United States of America *vs.* Flick, et al., decided by Tribunal IV.* There, as here, the defendants were industrialists employing prisoners of war, forced labor, and

* United States *vs.* Friedrich Flick, et al., Case 5, Volume VI, judgment, this series.

concentration camp inmates in the production of armament in aid of the war effort. Flick and one of his codefendants were nevertheless found guilty on the charge presently under consideration. This was by way of an exception to the holding that the defense of necessity was applicable. The basis of this aspect of the decision appears from the following quoted from the opinion:

> "The active steps taken by Weiss with the knowledge and approval of Flick to procure for the Linke-Hofmann Werke increased production quota of freight cars which constitute military equipment within the contemplation of the Hague Convention, and Weiss' part in the procurement of a large number of Russian prisoners of war for work in the manufacture of such equipment deprive the defendants Flick and Weiss of the complete defense of necessity. In judging the conduct of Weiss in this transaction, we must, however, remember that obtaining more materials than necessary was forbidden by the authorities just as falling short in filling orders was forbidden. The war effort required all persons involved to use all facilities to bring the war production to its fullest capacity. The steps taken in this instance, however, were initiated not in governmental circles but in the plant management. They were not taken as a result of compulsion or fear, but admittedly for the purpose of keeping the plant as near capacity production as possible."

The defense of necessity in municipal law is variously termed as "necessity," "compulsion," "force and compulsion," and "coercion and compulsory duress." Usually, it has arisen out of coercion on the part of an individual or a group of individuals rather than that exercised by a government.

The rule finds recognition in the systems of various nations. The German Criminal Code, Section 52, states it to be as follows:

> "A crime has not been committed if the defendant was coerced to do the act by irresistible force or by a threat which is connected with a present danger for life and limb of the defendant or his relatives, which danger could not be otherwise eliminated."

The Anglo-American rule as deduced from modern authorities* has been stated in this manner:

> "Necessity is a defense when it is shown that the act charged was done to avoid an evil both serious and irreparable; that there was no other adequate means of escape; and that the remedy was not disproportioned to the evil. Homicide through

* Wharton's Criminal Law (Lawyer's Coop. Publishing Co., Rochester, N. Y., 1932), volume I, 12th edition, section 126, page 177.

necessity i.e., when the life of one person can be saved only by the sacrifice of another, will be discussed in a subsequent chapter. The issue, it should be observed, is not simply whether a particular life is to be sacrificed in case of necessity, but whether it is right for a person to commit a crime in order to save his life. The canon law prescribes that a person whose life is dependent on immediate relief may set up such necessity as a defense to a prosecution for illegally seizing such relief. To the same general effect speak high English and American authorities. Life, however, can usually only be taken, under the plea of necessity, when necessary for the preservation of the life of the party setting up the plea, or the preservation of the lives of relatives in the first degree."

As the prosecution says, most of the cases where this defense has been under consideration involved such situations as two shipwrecked persons endeavoring to support themselves on a floating object large enough to support only one; the throwing of passengers out of an overloaded life boat; or the participation in crime under the immediate or present threat of death or great bodily harm. So far as we have been able to ascertain with the limited facilities at hand, the application to a factual situation such as that presented in the Nuernberg trials of industrialists is novel.

The plea of necessity is one in the nature of confession and avoidance. While the burden of proof is upon the prosecution throughout, it does not have to anticipate and negative affirmative defenses. The applicable rule is that the prosecution is compelled to establish every essential element of the crime charged beyond a reasonable doubt in the first instance. However, if the accused's defense "is exclusively one of admission and avoidance, or if he pleads some substantive or independent matter as a defense which does not constitute an element of the crime charged, the burden of proving such defense devolves upon him. As a general rule, in matters of defense, mitigations, excuse, or justification, the accused is required to prove such circumstances by evidence sufficient to prove only a reasonable doubt of his guilt. And if the circumstances relied upon are supported by such proof as produces a reasonable doubt as to the truth of the charge against the accused when the whole evidence is considered by the jury, there must be an acquittal".* The question then is whether, upon a consideration of the whole evidence, it can be justly said that there is such a doubt.

The defense of necessity is not identical with that of self-defense. The principal distinction lies in the legal principle in-

* Wharton's Criminal Evidence, op. cit. supra, section 211, pages 236 and 237.

volved.[1] Self-defense excuses the repulse of a wrong whereas the rule of necessity justifies the invasion of a right.

In the view of German writers the law of necessity involves not the assertion of right against right, but of privilege against privilege. But from the standpoint of the present case, the rule of necessity and that of self-defense has, among others, one characteristic in common which is of determinative significance. This is that the question is to be determined from the standpoint of the honest belief of the particular accused in question. Thus, with respect to the law of self-defense, Mr. Wharton quotes Berner, an authoritative German jurist:

> "Whether the defendant actually transcended the limits of self-defense can never be determined without reference to his individual character. An abstract and universal standard is here impracticable. The defendant should be held guiltless (of malicious homicide) if he only defended himself to the extent to which, according to his honest convictions as affected by his particular individuality, defense under the circumstances appeared to be necessary."[2]

Wharton himself says "that the danger of the attack is to be tested, * * * from the standpoint of the party attacked, not from that of the jury or of an ideal person."[3]

We have no doubt that the same thing is true of the law of necessity. The effect of the alleged compulsion is to be determined not by objective but by subjective standards. Moreover, as in the case of self-defense, the mere fact that such danger was present is not sufficient. There must be an actual bona fide belief in danger by the particular individual.

The evidence of the prosecution with respect to particular defendants was sufficient to discharge the burden resting upon it in the first instance. Thereupon the burden shifted to the defendants of going forward with the evidence to show all of the essential elements of the defense of necessity to an extent sufficient to raise a reasonable doubt in the minds of the Tribunal upon a consideration of the whole of the evidence. In this respect the evidence falls short in a vital particular.

Assuming for present purposes the existence of the tyrannical and oppressive regime of the Third Reich which is relied upon as a basis for the application of the rule of necessity, the competent and credible evidence leaves no doubt that in committing the acts here charged as crimes, the guilty individuals were not acting under compulsion or coercion exerted by the Reich authorities within the meaning of the law of necessity.

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[1] Wharton's Criminal Law, op. cit. supra, volume I, section 128, page 179.

[2] Ibid., section 623, page 850.

[3] Ibid., section 134, page 185.

Under the rule of necessity, the contemplated compulsion must actually operate upon the will of the accused to the extent he is thereby compelled to do what otherwise he would not have done. Thus, as Lord Mansfield said in the case cited in the Flick opinion as giving the underlying principle of the rule invoked:

> "Necessity forcing man to do an act justifies him, because no man can be guilty of a crime without the will and intent in his mind. When a man is absolutely, by natural necessity, forced, his will does not go along with the act."[1]

Here we are not dealing with necessity brought about by circumstances independent of human agencies or by circumstances due to accident or misadventure. Upon the contrary, the alleged compulsion relied upon is said to have been exclusively due to the certainty of loss or injury at the hands of an individual or individuals if their orders were not obeyed. In such cases, if, in the execution of the illegal act, the will of the accused be not thereby overpowered but instead coincides with the will of those from whom the alleged compulsion emanates, there is no necessity justifying the illegal conduct. That is this case.

Hence the Flick Case[2] is distinguishable upon the facts. For instance, a determinative factor in that case is indicated by the following from the opinion: "With the specific exception above alluded to and as hereinafter discussed, it appears that the defendants here involved were not desirous of employing foreign labor or prisoners of war."

In the present case the evidence leaves no doubt that just the contrary was true. For instance, we have hereinabove referred to a letter from the board of directors of Fried. Krupp, A.G., Essen, dated 26 September 1942, addressed to the Army High Command, which as noted, concludes as follows (*Lehmann 421, Def. Ex. 1186*):[3]

> "As we are, under the circumstances described, very anxious to employ Russian prisoners of war in the very near future, we should be grateful if you would give us your opinion on this matter as soon as possible."

The minutes of a meeting at the penal camp Dechenschule, 14 March 1944, prepared by the defendant von Buelow, furnish another illustration. After reciting that most of the inmates to be confined in that camp would be people guilty of breach of labor contracts who had been apprehended in France by the military authorities, von Buelow concludes, "finally I pointed out to Krimi-

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[1] Stratton's Case, 21 How. St. Tr. (Eng.) 1046–1223.

[2] United States *vs.* Friedrich Flick, et al., Case 5, Volume VI, judgment.

[3] Reproduced above in section VIII G 1.

nalrat Nohles (of the State Police) that the question of labor allocation is decisive for us and that we would like to secure these valuable French workers for ourselves for this reason."

A letter of 18 September 1943, addressed to the employment office in Essen indicates the attitude of the Krupp officials toward the Reich policy of conscription of foreign labor. It is as follows (*NIK–15402, Pros. Ex. 1574*) :[1]

> "The 1-year contracts of a great number of our French, Belgian, and Dutch workers of the Cast Steel Works will expire within the next 2 months. Since these people are not prepared to renew their contracts we intend to have them conscripted. With reference to the conversation with your Mr. Dieckmann we ask you to consider how the necessary formalities may be best carried out. This applies to about 200 persons."

But long before this the Krupp firm had manifested not only its willingness but its ardent desire to employ forced labor.

In December 1942 and prior thereto the Krupp firm maintained a labor recruiting office in Paris. Their representative was a Mr. Hennig, said to have "the best connections to all German and French departments." Learning that a new draft of about 265,000 workers was to be made in occupied France during the month of January, the defendant Lehmann made a trip to Paris with a view of seeing that the Krupp firm got a larger share of these workers than was then to be expected. He had Dr. Servatius, Oberregierungsrat of the Regional Land Office [Land Labor Office] Rhineland, go with him. In reporting the result of his efforts, Lehmann said, among other things, "With our aid, our requests were then distributed properly to the various district commanders [Bezirkschefs] and [regional military] field headquarters [Feldkommandaturen]. As much as possible, the selection of the drafted individuals is then also to be undertaken with the help of one of our representatives."

Referring to the possibility of getting skilled workers from unoccupied France, Lehmann, in the same report, stated as follows (*D–196, Pros. Ex. 888*) :[2]

> "Because of the new political situation in the so far unoccupied part of France, the French government agencies will from now on act energetically at the draft of workers in this region. As one of the first measures, the French railways will transfer to Germany approximately 460 skilled workers. That will be 60 percent of the skilled workers who have been promised to us for some time, but who could not be persuaded to sign the

[1] Reproduced above in section VIII B 1.

[2] Parts of this document are reproduced above in subsection VIII B 1.

contracts and to leave. The workers will be sent during the first week in January from the various factories to Lyon, where they can be received by our representative and will be conducted to Essen.

"In the beginning of January, Mr. Hennig will also try immediately to start on their way to Essen the 210 skilled workers allotted to us from the locomotive factory Fougat, Beziers. On our part we shall try to achieve that these workers will not be considered as part of our January quota since they have been promised to us for some time."

The willing attitude of the Krupp officials toward the employment of concentration camp inmates is indicated by the minutes of a conference held on 5 June 1944 in the office of Ihn. This conference was attended by the defendant Krupp among others. The defendant Ihn prepared the minutes. The following quotation refers to the Friedrich-Alfred-Huette at Geisenheim. It is as follows:

"Mr. Vorwerk, F.A.H., will examine the question as to whether there is any possibility for the F.A.H., to employ any prisoners and convicts. If necessary the Cast Steel Works will try to include this requirement in their request.

"Messrs. Guenther, Graefe, and Geisenheim, are negotiating with the concentration camp in their zone. Although no result has been reached in these negotiations so far, Geisenheim will continue to deal with the question on their own. Only if no result is reached will the Cast Steel Works take a hand in the matter."

A copy of the minutes was distributed to the defendants Krupp, Houdremont, Janssen, Mueller, von Buelow, and Kupke, among others.

The efforts of the Krupp concern to expand during the war years also negatives the idea that they were acting under compulsion.

The evidence already referred to in connection with the employment of concentration camp inmates demonstrates this fact. An additional incident reflects the firm's attitude. On 17 July 1943, there was a meeting of the Directorate of ELMAG, then located at Mulhouse. It was attended by the defendants Eberhardt, Ihn, and Janssen. Among other things, the minutes reflect the following:

"Next spring Krawa is to reach an output of 100 Zgkw [Zugkraftwagen] or tractors per month. It is said, however, that lately the special committee cut down the tank program and

only 80 or a still lower Zgkw figure per month by ELMAG is proposed. Mr. Eberhardt recommends to Mr. Zimmermann who is expected to be in Berlin to attend the meeting of the special committee on 23 July 1943, to talk to Mr. Dinckelacker, with a view rather to increase the program than to cut it down.

"To assure the firm's reputation as motor manufacturer also for the future, an attempt should be made to obtain orders for motor construction. In this respect, too, Mr. Zimmermann should take appropriate steps. Mr. Eberhardt also points out that the allocation of additional labor is to benefit not only the prime-mover manufacture and its spare parts, but also the manufacture of spare parts in Tann."

The testimony of Flick,* a competitor of the Krupp firm, also indicates that the Krupp firm was endeavoring to expand its activities. Flick was introduced as a witness of the defense. His evasive answers on cross-examination leave much to be desired. But the following is clear: Properties known as Vairogs had belonged to Flick. The Krupp firm was in negotiation with the army ordnance to be allowed to take over and manage the property. In this connection, Flick was asked and answered as follows:

"Q. Is it not a fact that you objected violently to the attempts of the Krupp firm to expand into areas where they had never been before?

"A. Yes, in that case, whether this would have been a final expansion policy of Krupp was an open question. In my trial, I stated that for us it was a question of prestige. Vairogs had belonged to us in 1936, and we would have to relinquish it to another firm and have it managed by another firm. It was my opinion that it was an insult to us if we weren't given the task of managing this firm."

The officials of the Krupp firm well knew that any expansion of its facilities and activities would require the employment of forced labor, brought from occupied territories, prisoners of war and concentration camp inmates.

Other illustrations indicating the firms entire willingness to cooperate in the use of these several types of labor could be given, but the foregoing are ample to show that the law of necessity cannot be held a good defense under the facts of this particular case.

While we regard the foregoing as conclusive, before leaving this

* Friedrich Flick was a defendant in the case United States *vs.* Friedrich Flick, et al., Case 5, Volume VI, this series. He was also a defense witness in the Krupp Case. His testimony is recorded in mimeographed transcript, 2 and 19 April 1948, pages 5409–5424, 5444–5488.

phase of the case we deem it not inexpedient to briefly examine the nature of the evidence offered by the defendants to establish the existence of the compulsion or coercion under which they claim to have acted. They introduced several witnesses who testified in general terms that because of the attitude of the Reich authorities, the officials of the Krupp firm had "no possibility of refusing a production quota."

Whatever may have been true with respect to Flick and other industrialists, the witnesses for the defense in the present case made it clear that the defendants acted not from necessity within the meaning of the rule invoked but from what they conceived to be a sense of duty. If it were permissible, as the defense seems to think, to show the subjective attitude of one person by the testimony of another, then that of the defense witness Schieber is typical. Schieber* was an SS Brigadefuehrer and high official in the Speer Ministry, which was in charge of the allocation or the fixing of production quotas and seeing that they were met. He was examined about the nature of the coercion upon industrialists. He testified that "what is decisive is the nature in which public opinion was directed. The defamation of such a man who opposed the State. This defamation was so severe that I believe any reasonable man would have seen to it that he avoided it." Asked how "this defamation (would) express itself" he answered, "it would hardly be possible for me to list all these defamations one by one. In general, it was not defamation from above, but from the man's neighborhood, or from the man on the street, the block leader, or the children, for example. You know how difficult from 1943 on, or how severe the leadership of the people, and of industry in the whole State became after 1943." He further testified that "I believe that for the vast majority of German plant managers, the moral coercion, namely the duty stood in the absolute foreground." And again, "a refusal to meet production programs does not occur in an orderly state which is at war. I am further of the view that when you speak of coercion to production that you might just as well call it a self-evident duty or task to produce." Asked about the Krupp firm in particular, he stated that "it regarded it as a patriotic duty to do what it could in aid of the war effort by meeting these production schedules."

This brings forward another aspect of the rule of necessity which as applied to the facts of this case needs consideration. It will be observed that it is essential that the "act charged was done to avoid an evil both serious and irreparable," and "that the remedy was not disproportioned to the evil." What was the evil which confronted the defendants and what was the remedy that

* Extracts of testimony are reproduced above in section VIII B 4.

they adopted to avoid it? The evidence leaves no doubt on either score. As said, Speer was the top official in charge of the allocation of production quotas and the ultimate arbiter concerning penalties in case they were not met. He testified as a witness for the defense in the Flick Case. Although he was available he was not offered as a witness in this case. However, under the liberal rules followed in these trials, short excerpts of his testimony in the Flick trial were allowed to be introduced in evidence by the defendants. The excerpts reflect that he was examined with respect to what would have happened to an industrialist prior to the implementation of an order of 6 September 1943, giving the main committee the legal basis for issuing directives to industrial plants. In dealing with the question presently under consideration we need not be concerned with the possibilities after September 1943, because many of the acts charged in the indictment were committed prior to that date, and moreover, so far as appears there were no changes in the attitude of the defendants. So far as the present question is concerned it was the same throughout.

From the excerpts introduced, it appears that Speer was asked and answered as follows:

> "Q. Now, if an industrialist should have said, before the promulgation of this law, 'The main committee has no legal basis, I shall do what I please.' What would have happened then?
>
> * * * * * * *
>
> "A. The industrialist would have lost his plant. He would have lost every possibility of exerting any influence on his plant. Such cases did occur, but not because of a refusal by the industrialist, but merely brought about by the fact that a plant regularly failed to achieve the production required of it. As an example I might mention the replacement of the plant manager of Krupp-Markstaedt, whose position was filled against Krupp's wishes by a Hamburg plant manager."

In the present case, the possibility of "losing a plant" did not exist for any of the defendants except Alfried Krupp and not for him prior to December 1943 when he became owner of the enterprise. None of them had any property interest in the business. The most that any of them had at stake was a job.

So accepting Speer's testimony, the question from the standpoint of the individual defendants resolves itself into this proposition: To avoid losing my job or the control of my property, I am warranted in employing thousands of civilian deportees, prisoners of war, and concentration camp inmates; keeping them in a state of involuntary servitude; exposing them daily to death or great bodily harm, under conditions which did in fact result in

the deaths of many of them; and working them in an undernourished condition in the production of armament intended for use against the people who would liberate them and indeed even against the people of their homelands.

If we may assume that as a result of opposition to Reich policies, Krupp would have lost control of his plant and the officials their positions, it is difficult to conclude that the law of necessity justified a choice favorable to themselves and against the unfortunate victims who had no choice at all in the matter. Or, in the language of the rule, that the remedy was not disproportioned to the evil. In this connection it should be pointed out that there is a very respectable authority* for the view that the fear of the loss of property will not make the defense of duress available.

But the extreme possibility hinted at, was that Gustav Krupp and his officials would not only have lost control of the plant but would have been put in a concentration camp had they refused to adopt the illegal measures necessary to meet the production quotas. Considering Gustav Krupp's influence and friendship with Hitler and the influence in Germany of the firm in general, it is difficult to conceive of this possibility. The fate of minor industrialists hardly can be regarded as evidence of what would have happened to the officials of the Krupp firm in similar circumstances. Rohland, a witness for the defense, correctly described the situation. He was an industrialist whom Speer made deputy chairman of the Reich Association Iron, one of the most important nationwide economic groups in the war economy of Germany. He became involved in a serious controversy with Sauckel and Ley and the latter threatened him with dire consequences. But he testified that "Speer covered for me completely," and that whether "one who was in serious opposition with the Reich authorities was sent to a concentration camp as a consequence depended very much on the person and on the question of whether the person concerned was directly in touch with someone like Speer."

The firm of Krupp was even better protected than Rohland. It was not only a vital factor in the war effort, but the head of it, Gustav Krupp, was a personal friend of Hitler. Gustav Krupp, not only had contributed large sums of money to the Nazi Party in the campaign which resulted in their rise to power, but played a leading part in bringing to Hitler's support other influential industrialists. Throughout the war years he and the Krupp firm continued to be regarded by Hitler with high favor. If nothing else appeared, this is conclusively shown by the "Lex Krupp," a special decree of Hitler whereby of all industrial firms in Nazi

* Wharton's Criminal Law, op. cit. supra, volume 1, section 384, footnote 1, page 515.

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Germany that of Krupp alone was enabled to continue as a family enterprise free from the manifold burdens of a corporate structure. All of the officials of the firm were important in industrial life in Germany and far from lacking influential friends.

Moreover, in all fairness it must be said that in any view of the evidence the defendants, in a concentration camp, would not have been in a worse plight than the thousands of helpless victims whom they daily exposed to danger of death, great bodily harm from starvation, and the relentless air raids upon the armament plants; to say nothing of involuntary servitude and the other indignities which they suffered. The disparity in the number of the actual and potential victims is also thought provoking.

This phase of the case must not be left without reference to the fact that there is a flat contradiction running throughout the defense of necessity. Upon the one hand it is said that the acts of omission and commission were required by the multitude of directives issued by state authorities which the defendants were bound to obey under penalty of grievous injury. Upon the other hand, it is said that they risked grave danger by violating such directives and even defying the Gestapo in order to mitigate the plight of the victims. There are numerous examples of this for which there is neither time nor space. The record speaks for itself. Three instances, however, may be referred to. The Gestapo issued an order that pregnancy of eastern workers should be interfered with. This was contrary to the law and the ethics of the medical profession. The Krupp doctor did not want to obey the directive, but was afraid to take a stand without the backing of the officials of the firm. The defense claims that he was given this backing unqualifiedly, notwithstanding that throughout this case the power and influence of the Gestapo is held out as being one of the factors which hung over the heads of the defendants.

As a preface to the second instance, we quote from the final plea made by counsel for defendants Krupp and Ihn. After referring to the establishment of the Central Planning Board, and the so-called "tapeworm decree," he states (*Tr. p. 12571*):

> "There is only one sentence which is quite clear in this decree. Only one man has the sole responsibility of meeting the requirements of war production, and that man is Speer, and he is also the man who issues very clear instructions prohibiting any considerations of private economy in industry.
>
> "It is self-evident that no factory is any longer authorized to engage in peacetime production. But even any planning for peacetime conditions is strictly prohibited. Ruthless action is taken against any managers who disregard this prohibition,

the conversion to exclusive war production is enforced by very robust methods."

Yet, the testimony of defense witness Kraus indicates that, whatever may have been true with respect to other industrialists, the officials of the Gusstahlfabrik were not intimidated by the situation described by counsel. During the war, Kraus was a "group chairman" and in December 1944 was appointed a plant director in the Gusstahlfabrik. After having testified that a "considerable peacetime production" was carried on during the early years of the war, he was then examined about such production during the later years. On this topic and with reference to the later years of the war, he was asked and answered as follows:

"Q. Please tell us another few branches of peacetime production.

"A. Well, we had our appliances production Nos. 1 and 2; we produced chemical containers. We even produced milk cans. Incidentally, whenever these investigation committees came they always objected to that, and we always had great arguments when we had to show what a number of different products we were manufacturing in the Gusstahlfabrik. We were even blamed for producing locomotives, and that was quite a considerable part of our total production.

"Q. What about motor vehicles?

"A. Yes, we made them too. I know that one of the inspecting commissions tried to close down some of the peacetime production in order to release the workers for war production."

Whatever may be said with respect to the relation to wartime production of the specific items mentioned by the witness, the fact nevertheless remains that it appears from his testimony that the Gusstahlfabrik in the later years of the war was engaged in what the witness said the "investigating committees" considered peacetime production and, so far as appears, nothing was done about it even though the "committees" objected thereto.

The third instance relates to the sale of Reich bonds by the Krupp firm. It was related by Schroeder, head of Krupp's accounting department and a witness for the defense. From his testimony it appears that in 1943 the Krupp officials became convinced that the war was lost and it was necessary to adopt a new policy looking to the post war period. At that time, the firm had accumulated government bonds in the amount of 200 million Reichsmarks, Schroeder said that "we started to sell these gradually so that when the war was nearly over we had only 68 million Reichsmarks in bonds. We did not on purpose sell all of them because that would have been too noticeable and it would have

smelled too much of defeatism; therefore, we had to retain a certain amount of bonds." The witness further testified that this was very dangerous and hence was done with great secrecy. He justified the policy upon the theory that the firm had a responsibility toward the workers whose livelihood depended upon them.

Whatever the reason, the sale of these bonds amounted to treason under the laws of the Reich for which the penalty was death. It was the very type of thing which the dread Gestapo, of which so much is said in this case, was supposed to detect and prevent.

It is true that the sale of the bonds was not openly made but if it be conceded that in the case of individuals so influential and important as the owners and officials of the Krupp firm that the risk was great, it must also be conceded that it was readily incurred whenever they thought there was involved interest of sufficient importance to justify such a course.

LAW AS TO INDIVIDUAL RESPONSIBILITY

As already said, we hold that guilt must be personal. The mere fact without more that a defendant was a member of the Krupp Directorate or an official of the firm is not sufficient. The rule which we adopt and apply is stated in an authoritative American text as follows:

> "Officers, directors, or agents of a corporation participating in a violation of law in the conduct of the company's business may be held criminally liable individually therefor. So, although they are ordinarily not criminally liable for corporate acts performed by other officers of agents, and at least where the crime charged involves guilty knowledge or criminal intent, it is essential to criminal liability on his part that he actually and personally do the acts which constitute the offense or that they be done by his direction or permission. He is liable where his scienter or authority is established, or where he is the actual present and efficient actor. When the corporation itself is forbidden to do an act, the prohibition extends to the board of directors and to each director, separately and individually."*

Under the circumstances as to the set up of the Krupp enterprise after it became a private firm in December 1943, the same principle applies. Moreover, the essential facts may be shown by circumstantial as well as direct evidence, if sufficiently strong in probative value to convince the tribunal beyond a reasonable doubt and to the exclusion of every other reasonable hypothesis.

* Corpus Juris Secundum (American Law Book Co., Brooklyn, N. Y., 1940), volume 19, pages 363 and 364.

Upon the facts hereinabove found, we conclude beyond a reasonable doubt that the defendants Krupp, Loeser, Houdremont, Mueller, Janssen, Ihn, Eberhardt, Korschan, von Buelow, Lehmann, and Kupke are guilty on count three of the indictment. The reasons upon which these findings of guilt are based have been set forth heretofore in the discussion of the facts under count three.

The nature and extent of their participation was not the same in all cases and therefore these differences will be taken into consideration in the imposition of the sentences upon them. The evidence presented against the defendant Karl Pfirsch we deem insufficient to support the charges against him set out in count three, and we therefore acquit the defendant Karl Pfirsch on count three of the indictment. The defendant Karl Pfirsch having been acquitted upon all counts upon which he was charged, shall be discharged by the Marshal when the Tribunal presently adjourns.

I have signed the judgment subject to reservations made of record in the proceedings of 31 July 1948.[1]

[Signed] HU C. ANDERSON, Presiding Judge
EDWARD J. DALY, Judge

I concur with the judgment in all respects except as appears in my dissenting opinion which follows.[2]

[Signed] WILLIAM J. WILKINS, Judge

Dated at Nuernberg, Germany, this 31st day of July 1948

B. Sentences

PRESIDING JUDGE ANDERSON: The Tribunal will now proceed to pronounce sentences on those of the defendants who have been found guilty, and since I am in respectful disagreement with my colleagues about that phase of the matter,[3] I will ask them to perform that task. Judge Daly.

JUDGE DALY: The defendant ALFRIED FELIX ALWYN KRUPP VON BOHLEN UND HALBACH will arise.

On the counts of the indictment on which you have been convicted, the Tribunal sentences you to imprisonment for twelve

[1] Presiding Judge Anderson's reservations were directed to the sentences imposed by the Tribunal and are found in his dissenting opinion which is reproduced below in section XII.

[2] Judge Wilkins' dissenting opinion to the dismissal of certain of the charges of spoliation appear below in section XIII.

[3] Presiding Judge Anderson's dissenting opinion as to the punishment of all the defendants, except for the defendant Kupke, is reproduced below in section XII.

years and orders forfeiture of all of your property, both real and personal. The same shall be delivered to the Control Council for Germany and disposed of in accordance with the provisions of Article II, paragraph 3 of Control Council Law No. 10. The period already spent by you in confinement before and during the trial is to be credited on the term already stated, and to this end the term of your imprisonment, as now adjudged, shall be deemed to begin on the 11th day of April 1945.

You may be seated.

The defendant EWALD OSKAR LOESER is not present. He has asked to be excused because of his condition of health, and his request has been granted. The defendant Ewald Oskar Ludwig Loeser, on the counts of the indictment on which he has been convicted, is sentenced by the Tribunal to imprisonment for seven years. The period already spent by him in confinement before and during the trial is to be credited on the term already stated, and to this end the term of imprisonment, as now adjudged, shall be deemed to begin on the 13th day of July 1947.

The defendant EDUARD HOUDREMONT will arise.

On the counts of the indictment on which you have [been] convicted, the Tribunal sentences you to imprisonment for ten years. The period already spent by you in confinement before and during the trial is to be credited on the term already stated, and to this end the term of your imprisonment, as now adjudged, shall be deemed to begin on the 10th day of September 1945.

The defendant ERICH MUELLER will arise.

On the counts of the indictment on which you have been convicted, the Tribunal sentences you to imprisonment for twelve years. The period already spent by you in confinement before and during the trial is to be credited on the term already stated, and to this end the term of your imprisonment, as now adjudged, shall be deemed to begin on the 10th day of September 1945.

You may be seated.

The defendant FRIEDRICH WILHELM JANSSEN will arise.

On the counts of the indictment on which you have been convicted, the Tribunal sentences you to imprisonment for ten years. The period already spent by you in confinement before and during the trial is to be credited on the term already stated, and to this end the term of your imprisonment, as now adjudged, shall be deemed to begin on the 10th day of September 1945.

You may be seated.

JUDGE WILKINS: The defendant MAX OTTO IHN will arise.

On the count of the indictment on which you have been convicted, the Tribunal sentences you to imprisonment for nine years. The period already spent by you in confinement before and dur-

ing the trial is to be credited on the term already stated, and to this end the term of your imprisonment, as now adjudged, shall be deemed to begin on the 10th day of September 1945.

The defendant KARL ADOLF FERDINAND EBERHARDT will arise.

On the counts of the indictment on which you have been convicted, the Tribunal sentences you to imprisonment for nine years. The period already spent by you in confinement before and during the trial is to be credited on the term already stated, and to this end the term of your imprisonment, as now adjudged, shall be deemed to begin on the 10th day of September 1945.

The defendant HEINRICH LEO KORSCHAN will arise.

On the count of the indictment on which you have been convicted, the Tribunal sentences you to imprisonment for six years. The period already spent by you in confinement before and during the trial is to be credited on the term already stated, and to this end the term of your imprisonment, as now adjudged, shall be deemed to begin on the 22d day of April 1947.

The defendant FRIEDRICH VON BUELOW will arise.

On the count of the indictment on which you have been convicted, the Tribunal sentences you to imprisonment for twelve years. The period already spent by you in confinement before and during the trial is to be credited on the term already stated, and to this end the term of your imprisonment, as now adjudged, shall be deemed [to begin] on the 10th day of September 1945.

You may be seated.

The defendant WERNER WILHELM HEINRICH LEHMANN will arise.

On the count of the indictment on which you have been convicted, the Tribunal sentences you to imprisonment for six years. The period already spent by you in confinement before and during the trial is to be credited on the term already stated, and to this end the term of your imprisonment, as now adjudged, shall be deemed to begin on the 24th day of September 1945.

You may be seated.

The defendant HANS ALBERT GUSTAV KUPKE will arise.

On the count of the indictment on which you have been convicted, the Tribunal sentences you to imprisonment for two years, ten months, and nineteen days. The period already spent by you in confinement before and during the trial is to be credited on the term already stated, and to this end the term of your imprisonment as now adjudged shall be deemed to begin on the 10th day of September 1945, and it shall end today. If there is any variance between the number of days between the dates, in any event you are to be released this evening.

You may be seated.

JUDGE DALY: During the trial of this case the defendants Loeser, Houdremont, and Korschan have been excused from attendance at Court on different occasions because of their health. The record indicated that the defendant Loeser is not present today because of his present condition.

The above-named defendants have just been sentenced to imprisonment. We believe that they should not be exposed by incarceration to dangerous consequences to their health. However, we are not in a position to determine whether the present condition of health of any of these defendants is of such a nature that imprisonment will cause fatal or other extremely serious consequences.

Accordingly, we are writing to General Lucius D. Clay, the U.S. Military Governor of the United States Zone in Germany, calling his attention to this with the suggestion that examinations be made for the purpose stated above. If he concludes that such examinations are indicated, and is of the opinion thereafter that because of the condition of health of any of the defendants in question, sentence or sentences of any of them should be altered, he has the authority to do so under Article XVII of Ordinance No. 7 of the Military Government for Germany, United States Zone.*

I, Hu C. Anderson, Presiding Judge, sign the foregoing subject to the written dissent filed and made a part of the record.

[Signed] HU C. ANDERSON
Presiding Judge

EDWARD J. DALY
Judge

WILLIAM J. WILKINS
Judge

Nuernberg, Germany
[Dated] 31 July 1948

* At this point Presiding Judge Anderson read into the record his dissent concerning the sentences, reproduced below in section XII.

XII. DISSENTING OPINION OF PRESIDING JUDGE ANDERSON ON THE SENTENCES IMPOSED BY THE TRIBUNAL[1]

The following is submitted pursuant to reservations made by me at the time I signed the judgment.

Upon the question of the guilt or innocence of the defendants under counts two and three of the indictment, I concur in the result reached by the Tribunal. As to the punishment, I concur in that fixed for the defendant Kupke. As to the defendant Alfried Krupp, I concur in the length of the prison sentence, but dissent from the order confiscating his property.

As to all other defendants, I feel bound to disagree with respect to the length of the respective sentences imposed.[2] In general, the basis of my disagreement is this: Having in mind that the defendants were heretofore acquitted of crimes against the peace, I think there are many circumstances in mitigation not mentioned in the judgment which should be given more weight.

In my view, the evidence as to the defendant Loeser presents a special case. Apart from the fact that during the war he resigned his position with the Krupp firm due to a disagreement with respect to certain policies and apart from other circumstances which seem to me proper to be considered in mitigation, I am convinced that before he joined the Krupp firm in 1937, and continuously thereafter, Dr. Loeser was identified with the underground movement to overthrow Hitler and the Nazi Regime, and that having been arrested by the Gestapo in connection with the plot of 20 July 1944, he escaped the death penalty meted out to others similarly involved only through a delay in his trial as a result of which he was liberated by the Allied troops.

Were I not convinced as a matter of principle that a finding of guilt or innocence by a court or tribunal enforcing criminal laws is not a discretionary matter, I would vote to acquit Dr. Loeser.

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[1] Dissenting opinion of Presiding Judge Anderson is recorded in the mimeographed transcript, 31 July 1948, pp. 13451–13452.

[2] After judgment had been rendered on 31 July 1948, Presiding Judge Anderson made and filed with the Secretary General of the Tribunals a memorandum concerning his dissent, as follows:

"Since the judgment was rendered, some question appears to have arisen as to the nature and extent of my dissent from that portion of the judgment dealing with the guilt or innocence of the respective defendants under counts two and three of the indictment, as distinguished from that portion dealing with the punishment.

"Although it seems to me that there should be no question about the matter, in order to remove any doubt about it, this statement is made by way of clarification: I fully concur in the acquittal of the defendant Pfirsch, and also in the reasons assigned therefor in the judgment. As to the remaining defendants, I fully concur in the result only.

"In my judicial and professional experience, the qualification indicated by a concurrence limited to the result is a well understood and established practice."

But even though I feel obliged as a matter of principle to concur in the conclusion as to the fact of his guilt, I think, when all circumstances which, from my viewpoint, should be considered in mitigation are weighed, the period for which he has already been confined in prison is ample punishment.

[Signed] HU C. ANDERSON
Presiding Judge

XIII. DISSENTING OPINION OF JUDGE WILKINS ON THE DISMISSAL OF CERTAIN OF THE CHARGES OF SPOLIATION[1]

The majority of the Tribunal are of the opinion that the Tribunal has no jurisdiction over the acquisition in 1938 of the Berndorfer Plant in Austria.

With due deference to my colleagues, I feel compelled to dissent from this finding and to the failure of the Tribunal to find that acts of spoliation were committed by these six defendants in three other instances; namely, (1) the confiscation of the Montbelleux mining property in France, (2) the illegal acquisition of the CHROMASSEO mining properties in Yugoslavia, and (3) the participation by the Krupp firm in the spoliation of the occupied Soviet territories.[2]

The facts relating to the acquisition of the Berndorfer Plant are as follows:

AUSTRIA

The Berndorfer Metallwarenfabrik Arthur Krupp, A.G., a very important metals factory located near Vienna, had been established in 1843 by a Viennese industrialist named von Schoeller. In a history of "Alfried Krupp and His Family" published in 1943 it was stated, "The Anschluss of the Ostmark to the German Reich in March 1938 had the gratifying result as far as the Krupp firm was concerned that an old plant established in 1843 by the Krupp brothers and the house of Schoeller, the Berndorfer Metallwarenfabrik, could be incorporated in the parent firm of Krupp in Essen." In any event Arthur Krupp, a grand uncle of Bertha Krupp, took over the property from his father in 1879 and succeeded in building it into one of Europe's leading industrial enterprises.

During the economic crisis of 1931–1932 the Berndorfer Company was forced to undergo a financial reorganization as a result of which the Creditanstalt Bank of Austria became the owner of a majority of the Berndorfer stock. From the time of the refinancing of the company and until the invasion of Austria in March 1938 the Krupp firm at Essen tried continuously to obtain ownership of Berndorfer but their offers were always rejected

[1] Read in part by Judge Wilkins after the Tribunal had rendered its judgment on 31 July 1948. However, the mimeographed transcript contains the dissent in full, 31 July 1948, pp. 13403–13445.

[2] At this point, in reading parts of his dissent, Judge Wilkins said: "May I just interpolate by saying that the six defendants referred to, of course, were the six who were found guilty of the crime of spoliation under count two."

by the Creditanstalt Bank. Because of the relentless pressure against Austria by Germany, relations between these two countries were poor prior to 1938 and neither the Austrian Creditanstalt Bank nor the Austrian State wanted foreigners to obtain any shares of Berndorfer.

As early as February 1937, more than a year before the seizure of Austria, Gustav Krupp's brother-in-law, Mr. von Wilmowsky, wrote a letter to Gustav stating that Lammers, State Secretary in Hitler's Reich Chancellery, had been advised of Gustav's desire for an interview with Hitler about the possibility of acquiring Austrian shares. The request was made that the audience take place as soon as possible as Gustav was anxious to have the matter settled and that the Fuehrer had promised to see him.

On 12 March 1938 German troops invaded Austria, and on the 13th a law was passed for the absorption of Austria within the German Reich. On 19 March 1938 a decree was issued by the Reich Minister of Economics prohibiting, under threat of fine and imprisonment, any German business concern from establishing subsidiary companies in Austria or acquiring by purchase Austrian business concerns except by special exception by the Reich Ministry of Economics. It may be said that this decree was issued, not in order to prevent the infiltration of the Austrian economy by Germany but to channelize that infiltration in a manner commensurate with the wishes of the Nazi government.

Three other German concerns were endeavoring to obtain an interest in the Berndorfer plant but their efforts brought no success as Goering had promised Gustav Krupp that the Krupp concern could have the exclusive right to purchase the Bank's controlling interest in Berndorfer.

I quote from another letter addressed to Gustav Krupp by his brother-in-law, Mr. von Wilmowsky, dated 19 April 1938. Mr. von Wilmowsky was a member of the Aufsichtsrat of the Krupp firm. His letter is particularly enlightening as it illustrates, I think, the political manœuverings to which the Krupp firm resorted in this instance to accomplish its purpose (*NI–770, Pros. Ex. 1278*):

> "I arrived in Vienna this morning and am leaving for Berndorf tonight * * *. I heard the following:
>
> "Mr. Hamburger's dismissal is definite. At the instigation of the Creditanstalt, a university lecturer Schmied from Danzig, an Austrian, has been appointed provisional supervisor in addition to the Betriebsfuehrer (plant manager) Kern. Mr. Kern had, hitherto, been in charge of commercial problems, however, he lacks insight where the management of the entire plant is concerned and does not possess the necessary authority.

"A Baurat Heller, hitherto consultant for the industrial transactions of the Creditanstalt, is now the president of the Direktion. Joham is a member of the Vorstand. Mr. Friedel and Dr. Pfeiffer have further been added as new members of the Vorstand. The latter gentleman is a confidential agent (Vertrauensmann) of the party and is well known to Mayor Neubacher.

"Mr. Heller has been described to me as an intelligent person with a pleasing personality, who, however, has no full authority and is little inclined to part with blocks of shares. Also with regard to the personnel problems in Berndorf, he will hardly be able to exercise sufficient authority. I heard it rumored that Direktor Abs was to take over the Creditanstalt, this is, however, nothing but a rumor.

"I also spoke to the former Berlin ambassador, his Excellency Riedl, whom I used to know well, and who is at present Staatssekretaer under Minister of Trade Fischboeck. He had not yet been informed of your plans regarding Berndorf. I gave him the information. He is absolutely reliable.

"It seems to me that the whole situation, as it is, urgently demands that Mr. Joeden should get in touch with Direktor Abs as soon as possible, since, in my opinion, he will be the most suitable person through whom the Creditanstalt can be contacted.

"Finally, I have just had breakfast with Mayor Neubacher with whom I have been well acquainted for many years. I informed him also. Mr. Neubacher is friendly with Mr. Raffelsberger, who, at the present moment, is the commissioner for all questions related to industrial economy, especially personnel questions. Mr. Neubacher described the sale of certain blocks of shares through the banks as highly desirable, since large building projects are imminent in Vienna, in particular the construction of a fair ground and the building of a Danube harbor.

"I also sent a copy of this letter to Dr. Joeden. I hope that you agree with the steps I have taken. I shall give you a more detailed report on O.A.'s condition from Berndorf."

Obviously the preliminary work done by Gustav Krupp through his close Nazi governmental ties paid off as the Creditanstalt Bank received directions shortly after the Anschluss that only a sale to Krupp of the Berndorfer stock was to be considered. Through coercion and Nazi political pressure by Goering, Keppler, Hitler's personal economic advisor, and other top Nazi officials the Creditanstalt Bank was forced to sell the Berndorfer works to Krupp-Essen, contrary to its own desires.

Under these circumstances the Bank, although it did not want to sell its interest in Berndorfer, had no other alternative than to come to an agreement with the Krupp firm on the purchase price. In the discussions preliminary to the sale with subordinates in the office of the defendant Loeser the bank officials concluded that the Krupp firm desired to acquire the plant for a nominal sum but on no account to pay its actual value.

Following the financial reorganization of the company all assets were evaluated at a very low rate which estimation of assets, according to an official of the Austrian Credit Bank, as given in the reconstruction balance could never be considered the basis for serious sales negotiations. This same official states, in an affidavit admitted in evidence:

> "* * * The negotiators Klaus von Bohlen-Halbach, Johannes Schroeder (finance director of the firm of Krupp, Essen), and Ing. Rusicka of the Krupp-Gruson-Plant in Magdeburg, sent by the Fried. Krupp A.G., Essen to negotiate shortly after Austria's Anschluss to Germany, made offers which were not even debatable; they also considered the evaluation of assets of the reconstruction balance of the Berndorfer Krupp A.G. much too high, and left no stone unturned in order to deprive the bank of this valuable share at as little financial cost as possible.
>
> "When I broke off negotiations in May 1938 and reported to my principals at the bank (the board of directors—Vorstand) that I considered it unjustifiable to dispose of such a valuable enterprise for a mere token amount (Anerkennungsbetrag) Goering via Keppler, i.e., Olscher * * * intervened—as I was told by Herr Baurat Ing. Heller— and despite all remonstrances —I could not prevent the acquisition of this valuable enterprise by the Friedrich Krupp A.G. in Essen for a round sum of RM 8,424,000."

The firm of Krupp accomplished its aim. Within a year after the purchase, Krupp's balance sheet, after allowing for payment of liabilities, shows the estimated value of assets to be more than three times the amount Krupp paid for the firm.

In October 1938 a letter from the Berndorfer works to Krupp indicates that "at a conservative estimate the net profits including depreciation will amount to 1,000,000 RM for the second half of 1938 and 1,000,000 RM for each half of 1939."

Thus, we see that immediately after the first aggressive act by the German Wehrmacht, Hitler, and the Nazi government were only too eager to commence paying off their indebtedness to the firm of Krupp. They knew only too well the value of the secret development work which the Krupp firm did prior to 1933 and

which made it possible upon Hitler's rise to power to start immediately the largescale production of tanks, artillery, and submarines of the most advanced and modern types. They knew that without this secret designing of armament by Krupp in conjunction with the German army and navy, the Anschluss and the subsequent wars of aggression could not have taken place or, in any event, would have been considerably delayed. Gustav Krupp and the Krupp firm correctly forecast and gambled that Germany would again "fight to rise" and as a part of the winning stakes they were able to obtain the Berndorfer works through Nazi political pressure.

A highway robber enters a bank and at the point of a pistol forces officials of the bank to part unwillingly with assets of the bank. Here the means of coercion was not one pistol but the entire armed and police might which had invaded Austria. That the facts, as proved, constitute extortion there can be no doubt. The question to be determined is whether they constitute a war crime under Article II, paragraph 1(*b*) of Control Council Law No. 10 and under the General Laws and Customs of War. To answer this question, reference must be made to the finding of the IMT:*

> "The invasion of Austria was a premeditated aggressive step * * * the facts plainly prove that the methods employed * * * were those of an aggressor. The ultimate factor was the armed might of Germany ready to be used if any resistance was encountered * * *."

Concerning Czechoslovakia, the IMT found that Bohemia and Moravia were also seized by Germany, under the threat "That German troops had already received orders to march and that any resistance would be broken with physical force * * *."

The IMT also found that, concerning Bohemia and Moravia, the laws and customs of war applied. Said the IMT:

> "The occupation of Bohemia and Moravia must * * * be considered a military occupation covered by the rules of warfare."

Such ruling was not made by the IMT concerning Austria because there was no reason to make such a ruling: war crimes concerning Austria were not charged in the case before it. It is difficult to conceive of any real difference between the seizure of Austria and the seizure of Bohemia and Moravia. If anything, the seizure of Austria was a more flagrant act of military aggression because in the case of Bohemia and Moravia, the Czechoslovakian President and Foreign Minister had—although under pressure—con-

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* Trial of the Major War Criminals, *op. cit. supra*, page 193 and 194.

sented to the German step. No actual hostilities evolved in either case; but it would be illogical to construe that the rules and customs of war should apply to the case of Bohemia and Moravia but not to the case of Austria. The rightful Austrian Government which emerged after the Germans left Austria, in fact, considered those who collaborated with the invaders as traitors, i.e., as persons acting for the benefit of the enemy.

In the case of both Austria and Czechoslovakia, war was used, in the words of the Kellogg Pact, as "an instrument of policy" and it was used so successfully, owing to the overwhelming war strength of Germany, that no resistance was encountered. It was, so to speak, in either case a unilateral war. It would be paradoxical, indeed, to claim that a lawful belligerent who had to spend blood and treasure in order to occupy a territory belligerently, is bound by the restrictions of the Hague Convention whereas an aggressor who invades a weak neighbor by a mere threat of war is not even bound by the Hague Regulations. The proven facts show conclusively that spoliation was performed, due to the physical supremacy enjoyed by the invader.

Professor Quincy Wright wrote in the American Journal of International Law (January, 1947), volume 41, page 61:

> "The law of war has been held to apply to interventions, invasions, aggressions, and other uses of armed force in foreign territories even when there is no state of war * * *."

To supplement his view, he referred to Professor Wilson's treatise on International Law, third edition, and to the illustrations given by the group of experts on international law, known as the Harvard Research on International Law, article 14 of Resolutions on Aggression, published in the American Journal of International Law (1939), volume 33, supplement page 905.

Professor Wright expressed the same view in 1926. (American Journal of International Law (1926), Vol. 20, p. 270.) Quoting various authorities and many precedents he stated:

> "Publicists generally agree that insurgents are entitled to the privileges of the laws of war in their relations with the armed forces of the *de jure* government."

I am of the opinion that the Berndorfer plant was acquired by coercion on the part of Krupp and with the active assistance of the German Reich, and that this acquisition was an act of spoliation within the purview of the Hague Regulations and authorities above cited.

The defendants Krupp and Loeser took active and leading parts in the acquisition of this plant, and, in my opinion, are guilty of spoliation with respect thereto.

THE MONTBELLEUX MINE, FRANCE

The tungsten ore mine located at Montbelleux in northern France had been operated during the years 1916–1918, following which the mine was abandoned. The ore was of rather low grade and could be mined economically only when prices were inflated due to increased demands for the metal. In 1936 the French Government issued a decree of forfeiture against the lessees of the mining concession. At that time nothing was left of the old installations; the timbers had rotted, the mouth of the shaft had caved in, and the property generally was quite inaccessible. Under French law all mineral rights are owned by the State but the extracted ores become the property of the individual to whom the government grants a lease or concession for the purpose of exploiting a mine.

In 1938 the French Ministry of Public Works leased the concession to one Edgar Brandt in order to develop the production of tungsten in France. During the war years, tungsten which is a very important metal alloy was very scarce in Europe and especially in France and Germany.

No immediate steps were taken by the Brandt concern to reopen the mine which had been closed for so many years but upon learning that the Germans were evincing some interest in the mining concession a study was made in August 1941 with the view toward a renewed exploitation of the mine. In the beginning of 1942 conferences took place between the German authorities and Brandt representatives. Engineers from the Krupp firm and the Todt Organization were present at these conferences. The German authorities offered to requisition materials and equipment necessary to reopen the mine, provided that a certain fixed percentage of the production would be sent to Germany. Some time thereafter the Brandt representatives stated that they were unable to accept the conditions laid down by the German authorities and the negotiations were temporarily suspended.

In August 1942 the property was seized without notice to the owner of the concession and without the issuance of a requisition. A plan was put into operation by the Todt Organization under the technical direction of the Krupp firm whereby the mine would be producing within a year.

The business report of the Krupp Administration for Ore Mining for the years 1942–1943 states the following (*NIK–12908, Pros. Ex. 637*):

> "At the instigation of the Reich Minister for Armament and War Production and of the Reich Economics Minister, the draining of the Montbelleux Tungsten Ore Mine, shut down

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since 1918, was begun by the Organization Todt in August 1942. In this connection our firm had a representative, even at that time, acting in an advising capacity. We shall take over the direct operational management of the mine on 1 April 1943, after a contracting firm (C. Deilmann, Dortmund) completes the installation of temporary surface equipment and the clearing out and expansion of the dilapidated main list shaft.

"Pursuant to a contract concluded with the Organization Todt the local operational management of the Krupp firm is acting as an independent construction unit within the framework of the Organization Todt in the performance of these tasks, and direct assistance is being given by the Organization Todt, especially in the carrying out of the necessary construction work and the supply of the needed replacements. As representatives of the sponsoring Ministries, the authorized agent of the Reich Minister for Armament and War Production and the Military Commander in France, Department of Mining, are competent in France."

The Brandt interests attempted further negotiations with the Krupp firm in order to obtain recognition to their rights in the property. Conferences took place between them and an agreement was prepared following these negotiations, but in September 1943 a letter from the Krupp firm advised Brandt that they had relinquished the management of Montbelleux for the benefit of a state organization within the framework of the Todt Organization.

Further attempts by Brandt and the French Government in his behalf for a recognition of his interests were of no avail and no payments of any kind were ever received by Brandt for ores extracted from his concession.

A contract was executed by Krupp and the Todt Organization under which Krupp assumed all responsibility for the underground workings, the obligation to provide the bulk of the machinery, the skilled workmen, necessary responsible management, personnel as well as technical supervision and office workers. The Todt Organization agreed to provide the buildings and installation on the surface, the French workmen, and assist in obtaining the necessary equipment. Krupp agreed to reimburse the Todt Organization for all expenses incurred by it and to handle the accounting, and the mining, delivery, and sale of the tungsten ore. The entire project was under the responsible management of the Krupp firm which in turn was responsible to the Commissioner for Mining of the Military Commander of France. The Todt Organization was not to intervene in the sphere of duties of Krupp except in case of impending danger.

The French Government had interceded in behalf of the owners of the surface rights of the mine property and steps were taken by the Montbelleux management to indemnify these owners for the use of their property. Brandt's concession covered only the underground rights. The following correspondence between the Krupp firm and the Montbelleux management is worthy of note (*NIK–8068, Pros. Ex. 729*) :

> "We acknowledge the receipt of your above mentioned letter and agree with the way in which you are proceeding in this matter. However, we attach great importance to the fact that the firm of Krupp be completely left out in the negotiations with the owners, as well as when making payments to them. Therefore, everything pertaining to this matter must be done in the name of the Organization Todt."

The management replied (*NIK–8066, Pros. Ex. 731*)—

> "We have taken note of the above communication and shall conduct all negotiations in accordance with your directives as it has been our practice so far."

Meantime the Krupp firm put the mine into operation. Necessary equipment and lumber for mine props were obtained by the Todt Organization from the local French economy. In the report of the Main Administration for Ore Mining appears the following (*NIK–12908, Pros. Ex. 637*) :

> "An estimate of 50–60 tons of WO_3 is made for the ore found immediately after the draining of the mine. According to the plans made with the interested Reich offices (Reichsstellen), for the time being a daily output of 50 tons of raw ore was intended. An ore dressing plant built for an output of this volume, delivered by the Krupp-Grusonwerk, was installed in the meantime and put in operation in September 1943. A production of 5–7 tons of concentrates per month is expected from this plant after the initial period of getting operation started.
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> * * * * * * *
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> "In the business year in all over 3,000 meters of mine installations (shafts, galleries, tram-ways, overhead structure) were drained or newly built. The mining of the ore was commenced at the beginning of July. Since then about 1,800 tons of raw ore were turned out, most of which was placed on the ore dump, since the new ore dressing plant could not start regular operations until the end of September. In addition to a certain amount of concentrates which could be picked out in the mine itself by hand methods, one-half ton of bruddle concentrates was produced in the year of the report. In October 1943, how-

ever, it was possible to increase the production of concentrates by the ore dressing plant to about 4 tons. The number of personnel for the mine was 252 at the end of the year of the report."

The mine was operated until June 1944 when the Germans were forced to evacuate due to the advance of the Allied forces. Before departing, however, the equipment was thoroughly and systematically destroyed and surface buildings set on fire. Dynamite was used to destroy much of the surface machinery.

During the period of exploitation of the mine approximately 50 tons of tungsten ore concentrates were removed and shipped to Germany, some of which reached the Krupp plants. The system of mining used—that of stripping—was designed to obtain the maximum quantity of ore within the shortest period of time and without regard to future mining operations. As a result, considerable exploratory work and reconstruction would be necessary before normal mining operations could be resumed by the French owners. This operation resulted in supplying Germany and the Krupp firm with at least 50 to 60 tons of a very valuable and very scarce metal which was taken from the French owner without authorization and for which he received no compensation. The operation of this mine was of such importance that the subject was discussed at a conference between Hitler and Speer in August 1942. Notes of the latter state:

"I reported to the Fuehrer on the development of the Wolfram-Mine Montbelleux. The development should be carried through completely."

I am satisfied from the credible evidence presented before us that the confiscation of this mine was a violation of Article 46 of the Hague Regulations. The removal of the ore concentrates to Germany and the systematic destruction of the machinery at the time of the evacuation were acts of spoliation in which the Krupp firm participated.

CHROMASSEO MINES, YUGOSLAVIA

On 10 October 1940 Johannes Schroeder, a direct subordinate to defendant Loeser in the finance department, submitted a very thorough and excellent intelligence report to his superiors in the Krupp firm on the then economic, political, and military conditions in Yugoslavia. Just 6 months thereafter (6 April 1941) the German Army invaded Yugoslavia and Greece. Defendant Loeser thought so well of the report that he set up the distribution list in his own handwriting, on the list being the names

of Alfried Krupp, von Buelow, and others, including Fritz Mueller who was at the time a member of the Vorstand but who is not to be confused with the defendant [Erich] Mueller. A few days later Fritz Mueller in a note to Schroeder acknowledged receipt of the report and made the following comment (*NIK–13222, Pros. Ex. 771*):

"Attached the Yugoslavia report with many thanks returned. It is so interesting that I should like to ask you to let me have a copy for handing on. For foreign oil questions I am the representative of the Security Service of the SS and as such have already short-circuited (?) the Security Service with Mr. von Buelow. Your report I would send to the competent man at the Security Service in Berlin, SS Sturmbannfuehrer Baubin, c/o Reichswerke Hermann Goering, Berlin * * *." (The Security Service was declared a criminal organization by the IMT.)

As has been seen in the other countries which were previously overrun by the German Army, there was extremely close cooperation between the Krupp firm and the Reich governmental agencies immediately following the invasion. This team work is even more pronounced prior to and after the invasion of Yugoslavia. I quote at length from a very enlightening affidavit of George Ufer, a Krupp employee who was able to serve two masters, the Reich government and Krupp, during the occupation of Yugoslavia (*NIK–13330, Pros. Ex. 775*):

"In May 1940, I was hired by the Krupp firm as assistant to the manager of Yugochrom which was being founded at that time. The Yugochrom was a foundation which was financed 50 percent by Krupp and 50 percent by the Hermann Goering Works. My task as a mining expert was to examine geologically chromium ore mines, the acquisition of which was possible, and to run those chromium ore mines in Yugoslavia that had been acquired.

"At the end of February 1941, about 5 weeks before the Germans marched into Yugoslavia, I was asked by the German consul general in Belgrade, at that time Neuhausen, to come to his office. There I was informed by the consul general, that I had to leave for Berlin immediately on a very urgent matter, and that I had to report to the economic and armament department of the Supreme Command of the Army (Oberkommando der Wehrmacht), Berlin, Kurfuerstenstrasse. Neuhausen told me that he had received instructions by wire from Berlin to inform me about this urgent trip to Berlin. Thereupon I took

the next train from Belgrade to Berlin, and informed the Yugoslav representative in my Belgrade office, a Mr. Marasim, giving some kind of excuse for my departure from Belgrade.

"After my arrival in Berlin, I reported to the office of the Supreme Command of the Army named by Neuhausen. There I was received by a high ranking officer, who was already expecting me. This high ranking officer, whose name I cannot recall, obviously knew who I was. Presumably my travel orders also originated from him. He administered an oath, according to which I had to observe strictest silence. Thereupon he revealed to me that the war against Greece was imminent, and that I should keep myself in readiness to act in the capacity of a war administration counsellor (Kriegsverwaltungsrat) in Greece.

"After that, I was sent back to Belgrade and continued my work as Krupp's representative. On 1 April, a few days before the German troops marched into Yugoslavia, I was evacuated from Belgrade together with the other Germans. After the occupation, about the end of April 1941, I returned to Belgrade, after having been appointed a war administration counsellor (Kriegsverwaltungsrat) on about 18 April 1941 by the same high ranking officer, who made the above-mentioned revelations to me at the end of February. I notified the Krupp firm, that is Dr. Janssen and several other gentlemen, whose names I now no longer recall, of my appointment.

"I started my work as war administration counsellor, not in Greece, but in Yugoslavia and served as war administration counsellor under Colonel Braumueller in Belgrade, who was chief of the Military Economic Staff (Wehrwirtschaftsstab) Southeast. Simultaneously, I continued my work as Krupp's representative for chromium ore mines in the Yugoslav territory. I continued my work for Krupp from the time of my appointment as war administration counsellor until June 1944 and during all this time was permanently in uniform * * *."

That the Krupp firm was intensely interested in exploiting the chrome mines of Yugoslavia, both before and during the occupation there can be no doubt. The new enterprise, Yugochrom A.G. mentioned by the witness Ufer, 50 percent owned by the Krupp firm and 50 percent owned by the Hermann Goering Works, had been established and work had been commenced on an ore dressing plant. The initiative was taken by the Krupp firm as shown by Sohl, chief of Krupp's department of ore mining (*NIK–13383, Pros. Ex. 772*)—

"We may claim for us that in this one year we thoroughly investigated all chromium deposits in Yugoslavia at all within reach and not yet in firm hands.

"* * * I therefore hold the view that in this one year during which Yugochrom has done practical work, we really did everything possible to carry out the task which, after all, we had set ourselves, for it must be emphasized that *there was no other agency in Germany which made efforts for a more intense exploitation of Yugoslav chromium ore, when we took this matter in hand in fall, 1939.*" [Emphasis added.]

In September 1940 Sohl reported to defendants Krupp, Loeser, and Janssen his conversations with Mr. Neuhausen, the then German consul general in Belgrade, who was to return to Yugoslavia after the German invasion as Plenipotentiary General for Business and Economy in Yugoslavia (*NIK–13243, Pros. Ex. 773*)—

"With regard to the chrome ore business, I also called Mr. Neuhausen's attention to the fact that a broader chrome ore basis for Germany in Yugoslavia could only be established if the existing large chrome ore companies could be placed in German hands. * * * Mr. Neuhausen told me that he had already given serious consideration to this question, too, and that he would immediately exploit every opportunity for a German participation of interests in order to then give Yugochrom the opportunity to take over."

All mining properties in Yugoslavia were expropriated by the German occupation authorities immediately following the invasion.

The CHROMASSEO chromium ore mining company, a Yugoslav corporation with a total of 8,000 shares of capital stock of a par value of 1,000 dinars each, owned a number of Yugoslav mining properties. The major ore reserves were in the vicinity of Jeserina, a section of Yugoslavia allocated to Bulgaria by Hitler-Germany under the illegal partition of Yugoslavia. The other properties were located in sections awarded to Albania which were under Italian occupation. The Krupp firm purchased 2,007 shares of CHROMASSEO stock from Rudolph Voegeli, a Swiss residing in Yugoslavia. An additional 1,000 shares which were owned by the Asseo family, but which were in Voegeli's possession as a security for a debt of the deceased owner Moses Asseo, were confiscated by the German Delegate General for Economy for Serbia and sold to the Krupp firm. The witness Ufer stated (*NIK–13156, Pros. Ex. 799*):

"These 1,000 shares, as I knew, had been confiscated by the Delegate General for Economy in Serbia, as being Jewish property, and the firm of Krupp A.G. now acquired through me the confiscated property of the Yugoslavian Jew, Moses Asseo. The firm of Krupp, as well as I, was aware of the fact that confiscated property of the Jew Moses Asseo was involved. At

no time, however, did I receive instructions of any kind from the firm of Krupp not to acquire the confiscated Jewish property."

In fact, the Krupp firm made strenuous efforts to obtain the remaining 4,993 shares of CHROMASSEO Mines Stock. The stock certificates had been placed in the custody of the Yugoslav Probate Court, under Guardianship Proceedings, because Moses Asseo had bequeathed them to his heirs of minor age. However, an Italian corporation, the Azienda Italiana Minerali Metallici, known as AMMI, had in some manner transferred them to Italian territory. The Krupp firm assumed the position that the fact the certificates had mysteriously shown up in Italian hands must have involved an illegality since they had been placed in the custody of the probate court. The Krupp firm initiated legal action in the Bulgarian Probate Court for a revocation of the stock transfer. This controversy became a subject of official negotiations on a high level between the German and Italian Governments and through government intervention the Krupp firm and AMMI settled their differences. Dr. Ballas, chief of Krupp's legal counsel and one of the defense counsel in this case, and Krupp employee Kyllmann, who succeeded Sohl as head of the department of ore mining, participated in the negotiations at Rome. Dr. Ballas' reports on that conference and other reports on the CHROMASSEO Mines are in evidence before us. One of these reports on the Rome negotiations marked "confidential" was distributed to defendants Krupp and Loeser, among others.

Meanwhile the Jeserina properties had been leased by the Krupp firm "at favorable terms" from the German military authorities who had seized all Yugoslavian mining properties. Under the provisions of the agreement reached at Rome, the interest of AMMI in the 4,993 shares and that of the Krupp firm in 3,007 shares were acknowledged and the Jeserina property was leased to Krupp until 30 October 1944. All stocks of chromium ore from Jeserina were put at the disposal of the Krupp firm for the duration of the war. The facilities of the Jeserina mine were expanded and the chromium ore extracted was shipped to Germany. The Jeserina plant was managed and supervised by the Krupp firm although the operating company was the Deutsch-Bulgarische Chromerzbergbau A.G. (German-Bulgarian Chromium Ore Mining Co.) in which the Krupp firm and the Hermann Goering Works each held a 50 percent interest.

In October 1942 a controversy arose over payment of the 1,000 shares of stock which had been purchased by the Krupp firm at the price of 1,700 dinars each, from Mr. Neuburger, the German

Delegate General for Economy. Attached to the stock certificates were dividend coupons numbered 1 to 4 inclusive which were due for the years 1938, 1939, 1940, and 1941. It was established that the price which the Krupp firm paid for the shares did not cover the coupons which were due.

The witness Hiep relates (*NIK–13159, Pros. Ex. 793*)—

"The Delegate General for Economy demanded payment on all these coupons from the firm of Krupp who held the shares. The purchase of the stock occurred at the end of 1941. I had no authority to sanction this transaction. It was a matter for the competent Krupp organs, i.e., of the main administration of ore mining, the legal department, and of the Krupp Vorstand. If I remember correctly, negotiations were initiated by Georg Ufer who at that time was the Balkan representative of the firm of Krupp for such matters."

In order to help the administrator out of his predicament, the Krupp firm offered to pay 400 dinars per share additional to the German Delegate General for the past due coupons and application was made by the Krupp firm to the German Foreign Funds Control for permission to make this payment.

In April 1943 the Plenipotentiary was still demanding payment although a special stockholders' meeting of the company revoked the previously declared dividend of 400 dinars on coupons numbered 1 to 3, invalidated coupons number 1 to 4 inclusive, and declared a dividend of 525 dinars per share on coupon number 5 for 1942 and the preceding years.

The attitude of the Krupp firm toward the Asseo family is demonstrated in the letter of Krupp employee Hiep in a memorandum to the finance department then headed by defendant Janssen (*NIK–13158, Pros. Ex. 792*)—

"* * * Neither can we understand why G.B.W. (the Delegate General for Economy) a German official agency after all is insisting so emphatically on the payment of 400,000 dinars by us for the benefit of Jewish property.

"* * * In view of these circumstances we would deem it proper for you to make another application to the foreign exchange control office in connection with the 400,000 dinars, and at the same time inform them confidentially of the above facts to induce them to reject this application again.

"* * * It might also be that settlement in our favor could be reached if the foreign control office inquired from G.B.W. - - why it attaches so much value to the retroactive payment in favor of the Jewish Asseo estate * * *."

Finally, because these dividend coupons had been declared invalid, the German Delegate General decided to forego any retroactive payments thereon.

The Krupp firm also desired to obtain 334 shares of stock of the Ljuboten Mines. German officials were unwilling to take any immediate action in the matter because of the plans being made to divide Yugoslavia among Germany, Bulgaria, and Italy. A letter signed by Scheibe and Kyllmann on behalf of the Direktorium of Friedrich Krupp A.G. and addressed to the Delegate General for Economy in Serbia, copy of which was sent to Ufer, states, in part:

> "* * * In this case it is purely private share holding of the Yugoslav state in a mining company established according to company law and to be judged on these grounds. Two-thirds of its shares are in private hands and one-third in the hands of the state * * * . The property of the former Yugoslav state, insofar as we are concerned here, consists merely of a share in a private company formed according to company law, for which in our opinion a provisional administrator could and should be appointed without any further ado to facilitate acquisition of these shares. The distribution of Yugoslav state property among the successor states will not be affected in any way by such measures because the sale to us of these shares representing enemy property through a provisional administrator would not reduce the capital of the former Yugoslav state."
>
> "May we ask you in view of the foregoing points to investigate once again the legal aspects of the matter which is of paramount importance to us."

Although the Krupp firm's efforts were unsuccessful in this instance, the facts are relevant in this case because they again reveal the intensity of the spoliative designs of the Krupp firm, as well as the initiative and pressure upon German government agencies which it exercised.

Finally, in all, up to September 1944 the Krupp firm produced and sent to Germany 108,000 tons of Yugoslavian chrome ore.

An appropriation of 957,500 RM was approved by defendants Krupp and Loeser, 20 September 1941, for chrome mining in the Skoplje area and the foundation of the German-Bulgarian Chrome Mining Co. at Sofia with participation of the Hermann Goering Works and Friedrich Krupp A.G. each 50 percent.

Again on 11 July 1942 an appropriation of 1 million RM was approved for the German-Bulgarian Chrome Mining Co. by the same two defendants.

Defendant Krupp was the Vorstand member in charge of the

ore mining department at the time of the acquisition of these mining properties in France and Yugoslavia. In fact, this department worked closely with the finance department on all matters relating to the acquisition and exploitation of mineral resources. Reports on the activities of the Krupp firm in this field were distributed to defendants Houdremont, Mueller, and Janssen. After April 1943 Fritz Mueller, who is now deceased, was the Vorstand member directly in charge of ore mining, but matters of policy and acquisition of properties required the approval of the other members of the inner Vorstand; namely, defendants Krupp, Houdremont, Mueller, and Janssen.

The activities of the Krupp firm in Yugoslavia which I have just reviewed clearly violated the laws and customs of war and more particularly Articles 43 and 46 of the Hague Regulations. The expropriation of mines in Yugolavia was not supported by any concern for the needs of public order and safety or by the needs of the occupation. The Krupp firm took the initiative in seeking to participate in the exploitation of the seized property, even urging the government to expropriate properties. It leased the Jeserina mine from the government authorities with knowledge of their illegal expropriation. The seizure of the Asseo shares based upon the anti-Jewish laws was illegal and subsequent dealings by the Krupp firm with knowledge of the illegality was likewise illegal.

RUSSIA

At the time of the attack on Soviet Russia on 22 June 1941 the Reich government issued a directive concerning the administration of the territories to be occupied which stated, in part:

> "The regulations of the Hague Convention on Land Warfare which concern the administration of a country occupied by a foreign belligerent power are not applicable, since the U.S.S.R. is to be considered dissolved, and therefore the Reich has the obligation of exercising all governmental and other sovereign functions in the interest of the country's inhabitants. Therefore, any measures are permitted which the German administration decrees necessary and suitable for the execution of this comprehensive plan."

This policy, that the Hague Conventions were not applicable at all in Russia, was openly proclaimed and there was no attempt to keep it secret nor to comply with the requirements of international law.

A decree was issued for the clarification of doubtful questions which arose "in connection with the discovery, seizure, securing,

sequestration, removal, and utilization of raw materials and materials important for the conduct of the war belonging to the new Occupied Eastern Territories * * *." The property already sequestered or still to be sequestered was "to be treated as the marshaled property of the Reich."

The IMT judgment referred to a decree issued by Goering, 19 October 1939. This decree established different occupation policies for different countries; in the one group the policy was—

> "* * * safeguarding of all their production facilities and supplies must be aimed at, as well as a complete incorporation into the greater German economic system at the earliest possible time."[1]

In the other group the policy was the removal of—

> "* * * all raw materials, scrap materials, machines, etc., which are of use for the German war economy. Enterprises which are not absolutely necessary for the meager maintenance of the naked existence of the population must be transferred to Germany * * *."[2]

The IMT commented:

> "In many of the occupied countries of the East and the West, the authorities maintained the pretense of paying for all the property which they seized.* * * In most of the occupied countries of the East even this pretense was not maintained; economic exploitation became deliberate plunder.* * * The occupation of the U.S.S.R. was characterized by premeditated and systematic looting. Before the attack on the U.S.S.R. an economic staff—Oldenburg—was organized to ensure the most efficient exploitation of Soviet territories. The German armies were to be fed out of Soviet territory, even if 'many millions of people will be starved to death.' "[3]

Following the invasion of Russia, the Reich government formed various quasi-governmental monopoly organizations in order to carry out its policy of exploitation of the Soviet economy. One of these organizations was the "Berg- und Huettenwerk Ost" which we shall refer to as BHO. It was founded upon the orders of Goering by the following partners:

(1) The Reich, represented by the Minister of Economics.
(2) The Economic Group Mining Industry.
(3) The Economic Group Iron Producing Industry, and,
(4) The Economic Group Wholesale, Import and Export Trade.

The Plenipotentiary for the Four Year Plan (Goering) was to nominate the chairman, vice chairman, and members of the Ver-

[1] Trial of the Major War Criminals, *op. cit. supra*, pp. 239 and 240.
[2] Ibid., p. 240.
[3] Ibid., pp. 240 and 241.

waltungsrat. Defendant Alfried Krupp was appointed a member of the latter, Paul Pleiger was appointed the company's manager. It was formed for the purpose of enabling the coal and iron and iron producing plants and foundries which still existed in Russia to be utilized and operated through this agency of the Reich. It was authorized to shut down plants under its control, lease them or hand them over to other enterprises.

The Krupp firm was desirous of participating in the spoliation of the eastern territories and negotiations toward that end took place between defendant Alfried Krupp and Pleiger, BHO's manager, which are described by the former as follows (*NIK–11669, Pros. Ex. 1405*):

> "After the occupation of the Ukraine, a Berlin government office—I have forgotten which one it was—suggested to the Krupp firm (sometime in the spring of 1942) that it declare itself ready for participation in the resumption of operations in the Ukrainian iron and steel industry. The object should be to supply the combat troops and rear echelons, to repair the communication system and installations and to deliver supplies for the coal mines of the Donets district.
>
> * * * * * * *
>
> "Due to my acquaintance with Pleiger and the necessity for cooperation with the Reich Associations 'Iron' and 'Coal' (RVE and RVK) I drew the assignment for conducting the first Krupp negotiations with Pleiger. In agreement with * * *, I made assent of the Krupp firm dependent on the question which of the works would be operated by Krupp and in what form this was to be done.
>
> "* * * Following an inspection trip in company with Mr. Pleiger to several works (at and near Stalino, Mariupol, and Kramatorskaya) in June 1942, I proposed to my colleagues, that we take over the sponsorship for the following works: the machine factory in Kramatorsk, Kramatorskaya, the steel works Asov and the steel works Ilyitch in Mariupol."

A meeting was held in defendant Loeser's office in August 1942, attended by defendants Loeser and Krupp for the purpose of discussing the problems arising in connection with the operation of factories in the Ukraine. It was decided at this meeting that the defendant Korschan would be the chief manager of the machine factory at Kramatorsk. It was understood that the BHO would not interfere with the management of the plant and it was also agreed that Pleiger should be urged to effect the assignment of the sponsorships as soon as possible. A few days thereafter,

Pleiger agreed that the Krupp firm should be the sponsoring firm for the three plants mentioned above, and advised Krupp to commence all measures necessary for the taking over of the management of those plants.

The initiative and interest displayed by the Krupp firm in the acquisition of sponsorships in the Ukraine is also evidenced by statements contained in the confidential report of a Krupp employee to defendant Janssen—regarding the taking over of the Molotov Works near Dnepropetrovsk by Krupp-Stahlbau—

> "I was confidentially informed in Berlin of the following: A general opinion seems to prevail, that for the reconstruction of the raw materials industry, such as coal mines, power plants, and foundries, one prerequisite must be set forth, i.e., the establishment of assembly and repair installations which under German management and with Russian workers would carry out this work * * * lease contracts will be concluded, and the German firms themselves are to bear the necessary costs of investment. This apparently differs from the foundries, where the German Reich is bearing the repair cost. *If later the lease contract should not lead to ownership,* the cost of investment will be repaid. Therefore greatest speed seems to be advisable now. After a discussion with Dr. Loeser and Dr. Janssen on 19 August in Berlin, Dr. Engelking and a member of our plant, perhaps Mr. Muth, will be sent immediately to Russia with the object of securing from the military authorities of the occupied territory the appointment of Krupp-Stahlbau in larger steel construction factory, *by which measure this would become an established fact, when the plants are to be allocated later on.* This procedure was also discussed yesterday with Dr. Celert who had no objections, but who advised us not to talk about the matter to outsiders.
>
> "*We are interested,* in the first place, in the Molotov plant which according to the descriptions given by members of our firm, would be suitable; large halls, situated near a large, navigable river, output about 5,000 tons. At Dnepropetrovsk itself we have two large construction sites, East Bridge and West Bridge. Some members of our firm are already working there who have placed large orders with the Molotov plant. In short, a small starting point is already existent." [Emphasis added.]

I quote from another report of an employee which was a subject for discussion between defendants Krupp and Loeser (*NIK–3895, Pros. Ex. 1386*):

> "* * * The steel construction plants belonging to the Krupp concern, by virtue of their organization, their production capacity

and above all due to their recently completed conversion will be able to favorably influence the Molotov plant in every respect and to reach the target set by the customers.

"These statements could not be contradicted and also the gentlemen from the Berghuette Ost could not raise any objections regarding the taking over by Krupp. The matter now shall be submitted to Dr. Schlotterer for his decision."

In a letter to defendant Janssen, Krupp employee, Hermann, in discussing the Molotov Works stated: "It is necessary that we should get in touch with the office of Dr. Kenna as soon as possible so that we will have his support."

From the documents admitted in evidence, and almost too numerous to mention, it is obvious that the Krupp firm's goal was the permanent acquisition of plants in Russia. I refrain from referring to other documents, except as may be mentioned hereinafter, so as not to unnecessarily and unduly prolong this opinion.

The sponsorship of the Molotov Works by Krupp-Stahlbau was approved by the Ostministerium (East Ministry) and granted on 8 October 1942. Later Speer decided that the Ostministerium had exceeded its authority in granting the sponsorship to the Krupp firm and because of a previous commitment he found it necessary to revoke the order of appointment. His office was endeavoring however to find a solution that would be "satisfactory to the Krupp firm."

Another enterprise in which the Krupp firm was interested was the so-called Ivan project which concerned the building and operation of an ammunition plant for the Army High Command. At Krupp's suggestion, it was agreed that a new company should be established which would be completely independent of BHO. As a result, the Sartana Company was organized at Essen and an agreement was entered into between the Army High Command and Sartana whereby the Sartana Company would carry out the Ivan project concerning the building and operation of the ammunition plant in the Ukraine. The production was to be based on the Asov Works in Mariupol, over which the Krupp firm held the sponsorship. The program was to be financed entirely by the Army High Command and the remuneration to the Krupp firm was to be an "adequate" one. In a report by defendant Eberhardt who was in charge of the negotiations—copies of which were sent to defendants Krupp, Loeser, Mueller, Pfirsch, and Korschan—the plan is discussed in detail. He reported that the Army High Command wanted to deal only with the Krupp firm and it was left with them to decide their relationship with other firms. The most important feature to the Krupp firm was that a promise would be obtained for the acquisition of the plant at a

later date. In the contract it was provided that the Army High Command would use its influence to ensure to Sartana "a share * * * in the ultimate redistribution of the industrial property of those regions."

On the advisory council (Beirat) of Sartana besides two army ordnance officers were, among other Krupp officials, the defendants Mueller and Eberhardt. The defendant Korschan who was later appointed to the advisory counsel was appointed vice chairman. The commercial manager (Fugmann) was appointed by the Direktorium in Essen and was directly subordinate to the commercial member of the Vorstand who was defendant Loeser until April 1943, and defendant Janssen thereafter.

The theory of the defense regarding participation in the Ukraine as I understand it is that they did not desire to participate and did so only under pressure of the Reich; that the Krupp firm had little or no say in the management of the enterprises, and gained nothing from their participation. The record seems to be quite to the contrary. It is apparent to me from the credible evidence in the case that competition among the various German firms in taking over plants and materials in the Ukraine was intense. They watched each other closely and vied with each other for sponsorships from these quasi-governmental agencies. Strenuous efforts were exerted by directors and employees of the Krupp firm and its subsidiaries to obtain sponsorships.

When the sponsorships of certain plants in Russia by the Krupp firm were approved, the activities of the firm and its subsidiaries were greatly accelerated. Krupp personnel was sent to Russia to assist in the management of plants. The defendants Krupp and Korschan with the other Krupp officials went to Russia to inspect the plants. Rosenbaum, defendant Houdremont's chief assistant—who was also a member of the advisory board of Sartana—made three trips there. Defendant Houdremont recommended to defendants Krupp and Loeser that a "Secretariat Russia" be established in Berlin and that Dr. Gerlach be placed at the disposal of defendant Janssen in Berlin as Dr. Gerlach had dealt with similar tasks in the "restarting of plants and negotiations with authorities when the Polish iron industry was restarted."

Defendants Loeser and Janssen decided to establish at the Gusstahlfabrik (Cast Steel Plant) a Main Office Ukraine through which sales and distribution agencies of all Krupp plants would be controlled. All subsidiaries and agencies were advised by the Direktorium to give active support to Krupp representatives who were responsible for the operations in Russia and to channel all important correspondence to the particular office designated at

Essen. In a report made by defendant Eberhardt of a conference with the BHO, copies of which were sent to defendants Krupp, Loeser, Mueller, Pfirsch, and Korschan, among others, pertaining to the method of setting up the sponsorships, the independence of these sponsorships from the Reich agencies is patent. I quote:

> "The minister wishes the sponsor firms to carry out this trusteeship *on their own responsibility.* * * * Thus, it will be a question * * * as we already assumed—of a 'Krupp- Department' within the Berghuette Ost. Yet Flottmann (BHO official) confirmed expressly that this department was *fully independent* * * *." [Emphasis added.]

In a communication from the Friedrich-Alfred-Huette plant, addressed to defendant Alfried Krupp, it is stated:

> "Our commercial group is very interested in this plan. In the Ostland, as well as in the Ukraine, we have already founded companies and—at least as far as the Ostland is concerned—we have also started operations with great success; our personnel is scheduled to depart for the Ukraine next week.
>
> "As Dr. Vaillant informs me the plan has not been submitted previously either to the Verwaltungsrat, nor to the Central Committee for Commerce (Zentralausschuss Handel). Our question at this time is whether with your help we might be given occasion to examine the plan, to enable us to protest in good time should the operations plan (Einsatzplan) treat our competitors in the East—the Vereinigte Stahlwerke, Mannesmann or the independent business man—more favorably than us. In the Ostland as well as also in the Ukraine we introduced ourselves very early—in the Ukraine our firm appears as Number 1 in the commercial register—and we therefore do not wish to lose again the territory where we have established ourselves."

In another communication, dated 22 March 1943, from a Krupp employee in the Ukraine—which was brought to defendant Mueller's attention—great disappointment is expressed because the factory for agricultural machines at Essen is closing down. This employee refers to the fact that there is no financial risk to the Krupp firm in the operation of the Berdyansk plant in the Ukraine and suggests steps be taken toward obtaining permanent ownership of the plant. I quote (*NIK–13971, Pros. Ex. 1416*):

> "* * * But as we now have finished the bulk of our preliminary work and are in the middle of building up, I should like to ask you to try to keep this factory working for us. It would

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be very regrettable if we had taken all the trouble and done all the work for another firm. On the other hand, the firm Krupp would not have any financial or other obligations in taking over the trusteeship over our enterprise except the salaries for the German employees. In exchange it would, after the war, have the opportunity to use this plant (Berdyansk) as the foundation stone of a new agricultural machine factory. I am firmly convinced that any different action would be regretted in Essen after the war. All the machinery and materials procured for this plant will be credited to the Krupp firm or be paid. We have to manage with these financial means put at our disposal by the State through the Economic Bank Ukraine (Wirtschaftsbank Ukraine). The Krupp firm, thus, does neither run any risk nor does it take any greater financial burden."

It will be observed too, from the following, the manner in which considerable machines and materials were obtained for this plant (*NIK–13971, Pros. Ex. 1416*):

"* * * After long negotiations with the Commissariat, I succeeded today in getting a fair number of partly good, and partly serviceable machines from other plants over here. In the course of the next two weeks these will be transferred to our plant. I had considerable difficulties with the man of the Commissariat who is in charge of machinery plants. He declared that I wanted to rob all his factories whereas I only requested those machines which were not fully used or not used at all in other plants. I got all the machines I wanted.

"In a factory over here, the 49th Works, a tool factory, which had been thoroughly demolished by the Bolsheviks, I discovered in the last few days some hauling and transmission machinery which might still be used, and also tool steel in sheets. I obtained the Commissariat's permission to take from there what I considered to be of any use to us.

"In the course of a week, I shall drive to Mariupol and Taganrog, together with a gentleman of the Commissariat in order to obtain some more tool machinery as well as steel and coke * * *."

Evidently this letter bore results as the Krupp firm was advised within less than a month that the Fried. Krupp factory for agricultural machinery at Essen was appointed the sponsoring firm for the agricultural machinery factory at Berdyansk. Defendants Janssen, Mueller, and Korschan took note of this appointment.

The Krupp firm's desire to retain sponsorship of a plant in the Ukraine is shown by the exchange of correspondence between the

defendant Alfried Krupp and Pleiger, manager of BHO. Pleiger writes (*NIK–13994, Pros. Ex. 1419*):

> "* * * I am therefore obliged to withdraw the sponsorship of this plant in the present form from the Krupp firm. After my return I shall be available for a discussion of this matter at the beginning of next week."

Defendant Krupp's letter in reply is as follows (*NIK–13228, Pros. Ex. 1420*):

> "* * * As long as these questions were not clarified, it was impossible for the Krupp firm to start work at Kramatorsk. Notwithstanding, five Krupp gentlemen arrived at Kramatorsk in the meantime.
>
> "Direktor Dr. Korschan will be at your disposal at any time in order to discuss this question with you. I would be grateful to you for giving him an appointment as soon as possible. I myself will be in Berlin only next week."

This letter is initialed by defendant Loeser, and a copy thereof is sent to defendant Korschan. Defendant Krupp's efforts were successful and the sponsorship of the machine factory at Kramatorsk was reinstated.

During the winter of 1942 the German Army suffered reverses which resulted in the recapture of the Kramatorsk plant by the Russians. With the spring drive, however, the factory was again recaptured and within a very short period of time was again producing largely for the German Army.

The machine factory at Kramatorsk was not damaged by the Russians in their retreat but the German troops had removed truckloads of tools and materials to the railroad repair shops within the first week after the recapture. Considerable of these tools were returned to the plant. Many machines were found which for the most part were in good condition. Within a very short period the plants sponsored by the Krupp firm were in production.

Cylinder boring and grinding sets were produced for the Wehrmacht which were described as the top equipment of the Donets area. Sixty-ton bridges were built and delivered and were described by the customers as "very good" in contrast with products of other firms in the area. A tank repair shop was opened at Kramatorsk in which up to 50 tanks a month could be repaired. Due to the importance of this task all other projects had to be abandoned for the time being. Plans were made for the manufacture of caterpillar tracks to supplement the production in Germany. Tens of thousands of small implements such as spades, shovels, hammers, wheelboxes, etc., were produced and repairs

to guns and vehicles were being carried out continuously due to the proximity of the front.

The Kramatorsk factory obtained 80 carloads of iron construction parts from an idle factory in Debaltsevo and trucked iron, sheet metal, and other materials from other idle plants. Machine tools were obtained from the BHO. Numerous rebuilding operations were in progress. In fact, the plant at Kramatorsk produced so well that Pleiger, manager of BHO, on an inspection tour of the factory expressed his appreciation of the work done so far. Thereafter the BHO suggested that the Krupp firm apply for sponsorship of the Boltov Works in Drushkovka, too. The employee who wrote such glowing reports of the accomplishments of the plant at Kramatorsk to defendant Mueller suggested that the supervision of the Boltov Works should be assigned to Kramatorsk and for tactical reasons Hedstueck should be appointed plant manager there in addition to his functions at Kramatorsk, stating (*NI–2959, Pros. Ex. 1400*):

> "Thus, we could show BHO that we have two separate works with two works managers and thus establish separate claims for both works. * * * After the transfer of the Boltov Works we plan to add a wire drawing plant, a nail factory, and an electrode factory to the existing screw factory. Some of the machines for these purposes have already been bought * * *."

This report which also contained the statement that if in the spring, Kramatorsk was still being held by the German forces, "our ownership of the works would undoubtedly be assured for the future," was of such great interest to defendant Mueller that he sent it to defendant Alfried Krupp who had requested it. Defendant Mueller suggested that all departments be requested to give all possible assistance to the Kramatorsk plant and added, "I also should like you to apply to Mr. Pleiger for the transfer of the sponsorship for the Boltov Works in Drushkovka." A copy of this report was also sent to defendant Korschan.

The change in the military situation in the fall of 1943 prevented the Krupp firm from carrying out the large program which it had set for itself in Russia. The extent of the firm's progress at Mariupol is shown by the items ordered evacuated. Great quantities of Ivan machines were removed. The Schu "scrap metal" organization was to remove 10,000 tons of steel alloy. The Krupp firm was ordered to remove a turbine and 8,000 tons of chrome nickel steel. Great pains were taken to destroy the plant because of its significance to the Russians.

The Krupp firm requisitioned 280 freight cars to evacuate machines and materials from the Kramatorsk plant. The lack of

available freight cars and manpower prevented the stripping of the plant as planned. One hundred freight cars were allocated by the military economy staff to remove machinery and material from the Kramatorsk plant. Extensive demolition work was carried out to render the plant and equipment completely useless.

Defendant Mueller reported to defendants Houdremont, Janssen, Eberhardt and Korschan regarding a telephone conversation with a Krupp employee at the Auschwitz plant. Defendant Mueller was advised that several railway cars containing presses and machines marked Ivan (ammunition project), without K or H, arrived at Auschwitz from Russia. Defendant Mueller told his associates on the Vorstand that he had agreed to "let those cars roll on to Markstaedt in order that the machines may be secured for us in any event."

The BHO, of which defendant Krupp was a member of the Verwaltungsrat, in its first business report, speaking of its activities in Russia, states (*NI–4332, Pros. Ex. 648*):

> "* * * Up to 30 November 1942, the following material from the Russian area was available for the German metal industry and the chemical industry for use in connection with the war economy:
>
> | | | |
> |---|---|---|
> | Iron ore | 325,751 | tons |
> | Chromium ore | 6,906 | tons |
> | Manganese ore | 20,145 | tons (1941) |
> | Manganese ore | 417,886 | tons (1942)" |

And, among other metals, there were listed 52,156 tons of scrap.

The mining of manganese ore was given a high priority because of the urgent need for this ore in the conduct of the war. The business report for 1942–1943 of the Dezernat for raw material procurement and exchange, states (*NIK–12848, Pros. Ex. 638*):

> "The delivery of manganese ores from Nikopol developed very favorably in the current business year, so that by 30 September, at the present rate of consumption, sufficient manganese ore for one year was available. * * * The very considerable receipts give rise to difficulties in storing the material."

Other reports set forth in detail the operations of ore mines by the Krupp firm in Greece, the Sudeten region of Czechoslovakia, Norway, Yugoslavia, and France. The ore mining operations of the Krupp firm of metals used in steel alloys primarily for war uses included molybdenum, nickel, tungsten, tin, and chromium. Over-all allocations by the Reich to the Krupp firm of metal ores from the occupied areas approximated 12–14 percent of the total receipts of all German users.

From Articles 48, 49, 52, 53, 55, and 56 of the Hague Regulations, the International Military Tribunal deducted—

> "* * * that under the rules of war, the economy of an occupied country can only be required to bear the expense of the occupation, and these should not be greater than the economy of the country can reasonably be expected to bear."*

This is sound construction, in accordance with the obvious intentions of the parties to that international treaty. In 1899 and 1907, when the Hague Regulations were drafted, state property only embraced a comparatively small section of the wealth of the respective countries. But the rationale of the various articles dealing with the authority of the military occupant particularly if viewed as they must be in the light of the preamble of the Convention is clearly that the treaty generally condemns the exploitation and stripping of belligerently occupied territory beyond the extent which the economy of the country can reasonably be expected to bear for the expense of the occupation.

The basic decrees pursuant to which the Reich authorities confiscated and administered Russian industrial property called for the unrestricted exploitation of such property for German war production and without regard to the needs of the occupation or the ability of the country to bear this drain on its resources. The same directives asserted the title of the Reich to all industrial property in Russia and the complete power of disposition of such property. The disposal of this property to private German firms as a means of integrating the Russian economy into the German economic program for Europe was the ultimate goal. This assertion of title completely ignored the obligation of an occupying power to administer public property only as an usufructuary. I am convinced from the credible evidence before us that the Krupp firm, with knowledge of the basic facts which made the seizure by the Reich unlawful, sought and obtained sponsorship over and exploitation of Russian industrial plants which were so seized. The extent and nature of the activities of the Krupp firm did constitute the type of illegal exploitation which Goering had outlined. By virtue of these acts the Krupp firm contributed to and participated in violations of the laws and customs of war which restrict the use of public industrial property to the needs of the army of occupation in proportion to the resources of the occupied country and to administration of such property only as an usufructuary.

It is asserted by the defense that whatever acts were committed by the defendants in the exploitation of Russia were not illegal

* Trial of the Major War Criminals, op. cit. supra, page 239.

in view of the decision of the Tribunal in United States *vs.* Friedrich Flick, et al. With this contention I cannot agree. The factual situation of the Flick Case and of that before us is at great variance.

The Flick judgment found that, as far as Flick's management of a certain French plant was concerned, "it was, no doubt, Goering's intention to exploit it to the fullest extent for the German war effort. I do not believe that this intent was shared by Flick. Certainly, what was done by his company in the course of its management falls far short of such exploitation." And, again, "We find no exploitation * * * to fulfill the aims of Goering. Adopting the method used by the IMT—namely, specifically the limitation that the exploitation of the occupied country should not be greater than the economy of the country can reasonably be expected to bear"—the Flick Tribunal, on the basis of the evidence of its own case, found that "the source of the raw materials (used by Flick in the Russian railway car plant) is not shown except that iron and steel were bought from German firms," and also considered it relevant to establish that the manufacture of armament by Flick in Russia was not proved. The Flick Tribunal decided that "when the German civilians departed, all plants were undamaged." Furthermore, according to the evidence received by the Flick Tribunal, there were other basic differences; they were paid from government funds and responsible only to Reich officials. At one of the two Russian enterprises operated by Flick, "the plants barely got into production." In short, the facts in the Flick Case were substantially different.

Prior to the evacuation of the plants at Kramatorsk and Mariupol as stated above, the Krupp firm aided in stripping these plants of machinery and raw materials. The property removed did not fall into any category of movable public property which the occupant is authorized to seize under the Hague Regulations and the participation of the Krupp firm in the removal of such materials and machinery was a direct violation of the laws of land warfare. The participation of the Krupp firm in the demolition of these plants was also a violation of the requirements of the Hague Regulations that the capital of such properties be safeguarded and administered in accordance with the laws of usufruct.

I am of the opinion that the Krupp firm abetted the Reich government and its various agencies in the utter and complete spoliation of the Russian occupied territories, took a consenting part in, and was connected with plans and enterprises involving the commission of those crimes.

For the reasons above stated I dissent only to the extent indicated. In all other respects I concur in the judgment of the Tribunal.

[Signed] WILLIAM J. WILKINS
Judge

XIV. CONFIRMATION AND REVISION OF THE SENTENCES BY THE MILITARY GOVERNOR OF THE UNITED STATES ZONE OF OCCUPATION[1]

A. Introduction

Under Articles XV and XVII of Ordnance No. 7, the sentences imposed by the Tribunal are subject to review by the Military Governor. On 1 April 1949, General Lucius D. Clay, Military Governor of the United States Zone of Occupation, confirmed by separate orders the sentences for a term of years imposed upon the defendants von Buelow, Eberhardt, Houdremont, Ihn, Janssen, Korschan, Alfried Krupp, Kupke, Lehmann, Loeser, and Mueller. However, in the order concerning the sentence imposed on the defendant Alfried Krupp, the Military Governor altered the provision of the sentence concerning the forfeiture and confiscation of property. The provision of the sentence reading:

> "* * * and orders forfeiture of all your property, both real and personal. The same shall be delivered to the Control Council for Germany and disposed of in accordance with the provisions of Article II, Section 3 of Control Council Law No. 10."

was changed to read:

> "All property * * * on 31 July 1948 [the day of the Tribunal's judgment and sentence] is ordered and declared to be subject to forfeiture and confiscation by the Zone Commander of the Area of Control in which the same was then located * * *."

The order of the Military Governor confirming and revising the sentence imposed on the defendant Alfried Krupp is reproduced below in section B. The order confirming the sentence for a term of years imposed on defendant von Buelow is reproduced below in section C. The orders confirming the other sentences for a term of years were similar to the order confirming the sentence imposed on the defendant von Buelow.[2]

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[1] Counsel for all the defendants who had been sentenced addressed petitions to the Military Governor requesting that the sentences be set aside or modified. The prosecution, following its previous practice, filed no reply or answer to these defense petitions. However, with leave of the Military Governor, a "Memorandum in Support of Affirmance of Property Confiscation Decree," 28 February 1949, was submitted by the Honorable James E. Murray on behalf of himself and other United States Senators. In connection with this memorandum, Mr. Joseph W. Kaufman, formerly deputy chief counsel for the Krupp trial, acted as counsel.

[2] At the time this volume was nearing completion, further action on these sentences was taken by the United States High Commissioner for Germany. His decision upon review of these sentences will be included in section XXV, volume XV, this series.

B. Order of Military Governor Confirming and Revising the Sentence Imposed on Defendant Alfried Krupp

HEADQUARTERS, EUROPEAN COMMAND

Office of the Commander-in-Chief

APO 742

Berlin, Germany

In the Case of The
United States of America
vs.

1 April 1949

Alfried Felix Alwyn Krupp
von Bohlen und Halbach, et al.

Military Tribunal III
Case No. 10

Order with respect to sentence of Alfried Felix Alwyn Krupp von Bohlen und Halbach

In the case of the United States of America against Alfried Felix Alwyn Krupp von Bohlen und Halbach, et al., tried by United States Military Tribunal III, Case No. 10, Nurnberg, Germany, the defendant Alfried Felix Alwyn Krupp von Bohlen und Halbach, on 31 July 1948, was sentenced by the Tribunal to imprisonment for a term of 12 years and to forfeiture of all his property both real and personal, directing delivery of the same to the Control Council of Germany and disposal thereof in accordance with the provisions of Article II, Section 3 of Control Council Law No. 10. A petition to modify the sentence, filed on behalf of the defendant by his defense counsel, has been referred to me pursuant to the provisions of Military Government Ordinance No. 7. I have duly considered the petition and the record of the trial, and in accordance with Article XVII of said Ordinance, it is hereby ordered that:

a. the provisions of the sentence imposed by Military Tribunal III on Alfried Felix Alwyn Krupp von Bohlen und Halbach pertinent to forfeiture, delivery and disposal of all his real and personal property be altered to read as follows:

"All property owned by Alfried Felix Alwyn Krupp von Bohlen und Halbach on 31 July 1948 is ordered and declared to be subject to forfeiture and confiscation by the Zone Com-

mander of the Area of Control in which the same was then located, without compensation, and without regard to any transfers thereof by him that have taken place or that may take place after that date."

b. the sentence imposed by Military Tribunal III on Alfried Felix Alwyn Krupp von Bohlen und Halbach, as altered above, be, and hereby is, in all respects confirmed;

c. the defendant be confined in War Criminal Prison No. 1, Landsberg, Bavaria, Germany.

[Signed] LUCIUS D. CLAY
LUCIUS D. CLAY
General, U. S. Army
Military Governor
and
Commander-in-Chief European Command

C. Order of Military Governor Confirming the Sentence Imposed on Defendant Von Buelow

HEADQUARTERS, EUROPEAN COMMAND

Office of the Commander-in-Chief

APO 742

Berlin, Germany

In the Case of The
United States of America

vs.

Alfried Felix Alwyn Krupp
von Bohlen und Halbach, et al.

1 April 1949

Military Tribunal III
Case No. 10

Order with respect to sentence of Friedrich von Buelow

In the case of the United States of America against Alfried Felix Alwyn Krupp von Bohlen und Halbach, et al., tried by United States Military Tribunal III, Case No. 10, Nurnberg, Germany, the defendant Friedrich von Buelow, on 31 July 1948, was sentenced by the Tribunal to imprisonment for a term of 12 years. A petition to modify the sentence, filed on behalf of the defendant by his defense counsel, has been referred to me pursuant to the provisions of Military Government Ordinance No. 7. I have

duly considered the petition and the record of the trial, and in accordance with Article XVII of said Ordinance it is hereby ordered that:

a. the sentence imposed by Military Tribunal III on Friedrich von Buelow be, and hereby is, in all respects confirmed;

b. the defendant be confined in War Criminal Prison No. 1, Landsberg, Bavaria, Germany.

[Signed] LUCIUS D. CLAY
LUCIUS D. CLAY
General, U. S. Army
Military Governor
and
Commander-in-Chief European Command

APPENDIX

Table of Comparative Ranks

U. S. Army	*German Army*	*U. S. Navy*	*German Navy*	*SS*	*Legal officials of German armed forces*[1]
2d Lieutenant	Leutnant	Ensign	Leutnant zur See	Untersturmfuehrer	Reichskriegsgerichtssekretaer
1st Lieutenant	Oberleutnant	Lieutenant (junior grade)	Oberleutnant zur See	Obersturmfuehrer	Heeresjustizinspektor Reichskriegsgerichtsinspektor Reichskriegsgerichtsobersekretaer
Captain	Hauptmann	Lieutenant (senior grade)	Kapitaenleutnant	Hauptsturmfuehrer	Heeresjustizoberinspektor Kriegsrichter Reichskriegsgerichtsoberinspektor
Major	Major	Lieutenant Commander	Korvettenkapitaen	Sturmbannfuehrer	Kriegsgerichtsrat
Lieutenant Colonel	Oberstleutnant	Commander	Fregattenkapitaen	Obersturmbannfuehrer	Oberkriegsgerichtsrat
Colonel	Oberst	Captain	Kapitaen zur See	Standartenfuehrer Oberfuehrer[2]	Oberstkriegsgerichtsrat
Brigadier General	Generalmajor	Commodore	Konteradmiral	Brigadefuehrer	Reichskriegsgerichtsrat Reichskriegsanwalt
Major General	Generalleutnant	Rear Admiral	Vizeadmiral	Gruppenfuehrer	Oberreichskriegsanwalt Senatspraesident beim Reichskriegsgericht
Lieutenant General	General der Infanterie, der Artillerie, etc.	Vice Admiral	Admiral	Obergruppenfuehrer	
General	Generaloberst	Admiral	Generaladmiral	Oberstgruppenfuehrer	
General of the Army	Generalfeldmarschall	Admiral of the Fleet	Grossadmiral	Reichsfuehrer	

[1] Oertzenscher Taschenkalender fuer die Offiziere des Heeres (formerly Fircks), 1942 edition, pp. 371–373. Legal officials of the German armed forces were nonmilitary members of the armed forces; they wore a uniform with insignia of equivalent rank.

[2] Equivalent to a senior colonel.

German Civil Service Ranks[1]

I. *Lower level*[2]

II. *Intermediate level*
1. Assistent[3]
2. Sekretaer[3]
3. Obersekretaer[3]

III. *Upper level*
1. Inspektor[3]
2. Oberinspektor[3]
3. Amtmann[3]
4. Amtsrat[3]

IV. *Higher level*
1. Regierungsrat
2. Oberregierungsrat
3. Ministerialrat
4. Ministerialdirigent
5. Ministerialdirektor
6. Staatssekretaer

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[1] The German Civil Service is divided into two main groups: Beamte (officials) and Angestellte (employees), Beamte are classified according to four levels: Beamte of "unteren Dienstes" (lower level), "einfachen mittleren Dienstes" (intermediate level), "gehobenen mittleren Dienstes" (upper level), and "Hoeheren Dienstes" (higher level). Angestellte are mainly custodial employees, workers, and minor clerks, but also includes some specialists who do not have Beamten status.

[2] Officials of the "lower level" are usually clerical employees and are usually addressed with the title of their position (such as "Buerovorsteher", chief clerk).

[3] Usually carries a prefix such as "Regierung," "Verwaltung," "Ministerial," etc.

List of Witnesses

[*Note.*—Prosecution witnesses are designated by the letter "P", defense witnesses by the letter "D." The names not preceded by any designation represent defendants. Where a witness appeared before a commission, the identifying letter "C" appears in the appropriate column. All other witnesses who testified in this case appeared before the Tribunal. The names having no numerical references are those of defendants who did not testify.]

	Name	Date of testimony	Appeared before commission	Pages (mimeographed transcript)
D	ALKEN, Christel	1 Jun 1948	C	10791–10821
D	ALTMANN, Friedrich	1 Jun 1948	C	10781–10789
P	AMMAN, Ernst	9, 12 Jan 1948		1378–1469
P	ARENS, Karl	18 Feb 1948		4285–4301
P	AUBRECHT, Josef	5 Feb 1948		3271–3295
P	BACH, Ernst Ludwig	24 Jan 1948	C	2281–2306
D	BALDUS, Paul	12 May 1948	C	7573–7602
P	BARGHEER, Wilhelm	12 Feb 1948		3839–3867
P	BARNEWALD, Otto	7 Feb 1948	C	3481–3489
P	BECHE, Robert	3 Feb 1948		3013–3063
D	BEDUHN, Franz	29 May 1948	C	10484–10506
D	BECK, Dr. Eugen	25 May 1948	C	9681–9703; 9851–9859
D	BECKMANN, Josef	15 May 1948	C	8121–8166
D	BENINGHOVEN, Dr. Wilhelm	27 May 1948	C	10171–10180
P	BERGHOUT, Laurens	10 Feb 1948		3601–3615
D	BESTECK, Heinrich	5, 7 June 1948	C	11593–11604; 11695–11706
D	BIEGI, Kurt	29 Apr 1948		6250–6292
D	BLUME, Erich	20 May 1948	C	8797–8807
D	BORCHMEYER, Dr. Josef	10, 11 May 1948		7221–7331
D	BRACHMANN, Wilhelm	27 May 1948	C	10141–10171
P	BRANDEJS, Jaroslav	29 Jan 1948		2643–2677
D	BRAUN, Theodor	26 May 1948	C	9861–9904
D	BROMBACH, Hermann	7 Jun 1948	C	11771–11791
D	BRUCKMANN, Heinrich	25 May 1948	C	9587–9599
	BUELOW, Friedrich von	28 May 1948		10203–10229
D	BUSCHMANN, August	5 Jun 1948	C	11526–11548
P	BUSSON, Henri	10 Feb 1948		3640–3687
P	CELAP, Milos	26, 27 Jan 1948		2399–2439
P	COME, Alphonse Charles Gyseline	2, 3 Feb 1948		2968–3012
P	CREMER, Conrad	18 Feb 1948		4231–4285
D	CUNTZ, Heinrich	30, 31 Mar 1948		5080–5160
P	DAHM, Josef	3, 4 Feb 1948		3080–3108
P	DEIBEL, Martinus	19 Feb 1948		4426–4431
D	DOERING, Anna	31 May 1948	C	10677–10700

	Name	Date of testimony	Appeared before commission	Pages (mimeographed transcript)
D	DOERNENBURG, Gustav	29 Apr 1948		6293–6309
D	DOLHAINE, Johannes Maria	21 May 1948	C	8917–8950
D	DOMINIK, Henriette	21 May 1948	C	9050–9066
D	DRINNENBERG, Josef	28 May 1948	C	10337–10342
P	DURRIEGEL, Robert	26 Jan 1948		2364–2398
D	DWORACK, Wilhelm	29 May 1948	C	10435–10454
	EBERHARD, Karl Adolf Ferdinand			
D	EICKMEIER, Hans	12 May 1948		7387–7461
D	EILEBRECHT-KEMENA, Erich	1 May 1948		6486–6498
P	EISFELD, Julius	22 Jan 1948		2086–2108
D	ENDRULAT, Paul	4 Jun 1948	C	11367–11390
D	ENGERISSER, Ludwig	25 May 1948	C	9563–9586
P	ESMEIJER, Hendrikus, J. J.	19 Feb 1948		4414–4425
P	ETZBACH, Wilhelm	7 Feb 1948	C	3423–3462
D	FAHRENHOLT, Hedwig	7 Jun 1948	C	11707–11737
P	FELL, Fritz	4 Feb 1948		3108–3136
P	FINZEL, Kurt Konrad			1709–1725
D	FLICK, Friedrich	2, 19 Apr 1948		5409–5424; 5444–5488
P	FRANÇOIS, Jacques Paul	30Jan;2Feb1948		2768–2806 2908–2967
D	FRANKE, Eberhardt	3 Jun 1948	C	11176–11234
P	FRAUENRATH, Heinrich Josef Hubert	23 Mar 1948	C	4863–4880
D	FRIES, Dietrich	7 Jun 1948	C	11748–11770
D	FRISCH, Erich	3, 4 Jun 1948	C	11145–11163; 11316–11318; 11341–11366
D	FUEHRER, Fritz	17, 18 May 1948		8277–8328
D	FUGMANN, Bruno	24 May 1948	C	9417–9435
D	GEULEN, Karoline	25 May 1948	C	9548–9562
P	GILDE, Cornelius Peter	16 Feb 1948		4040–4050
P	GLATZL, Robert	9 Feb 1948		3549–3569
D	GODDE, Wilhelm	31 May 1948	C	10609–10632
D	GROSS, Alfred	7 Jun 1948	C	11738–11747
D	GROSS, August	5 Jun 1948	C	11494–11502
P	GUMPERT, Walter	16 Dec 1947		611–630
P	GUTERSOHN, Peter	17 Feb 1948		4142–4175
D	HAENDEL, Fritz	11 Jun 1948	C	12289–12298
D	HAHN, Walter	25, 27 May 1948	C	9495–9512; 10034–10063
D	HAMMACHER, Hermann	12 May 1948	C	7602–7629
D	HANKO, Hans	12 Jun 1948	C	12332–12341
D	HANNULEK, Walter	13 May 1948	C	7806–7820
P/D	HANSEN, Dr. Paul	24, 27 Jan; 26 Apr 1948	C	2307–2347; 2465–2471; 5961–5980
D	HARDACH, Dr. Fritz-Wilhelm	3, 4 May 1948		6517–6641

	Name	Date of testimony	Appeared before commission	Pages (mimeographed transcript)
P	HAUPT, Konrad	16 Feb 1948		4051–4100
P	HAYN, Georg	16 Dec 1947		631–676
D	HEINRICHSBAUER, August	24 May 1948	C	9339–9372
P	HELLWIG, Friedrich, W. H	9 Feb 1948		3570–3580
D	HENNIG, Max	5 Jun 1948	C	11445–11459
D	HERMANN, Hans	30 Apr 1948		6348–6407
D	HERMANNS, Maria	12 May 1948	C	7533–7572
P	HIEP, Wilhelm Julius	11 Feb 1948		3779–3813
D	HINTZ, Helmuth	20 May 1948	C	8775–8779
D	HOBRECKER, Dr. Hermann Heinrich	27 May 1948	C	10064–10096
P	HOELKESKAMP, Walter	17 Feb 1948		4205–4226
P	HOFMANN, Johann	12, 15 Dec 1947		453–464; 471–489
P	HOFMANN, Otto	24 Mar 1948	C	4957–4993
D	HOLLMANN, Ernst	12 Jun 1948	C	12302–12320
	HOUDREMONT, Eduard			
D	HUELSENWIESCHE, Heinrich	4 Jun 1948	C	11319–11340
P/D	HUEMMERICH, Heinrich	16 Feb; 21, 22 May 1948	C	4100–4108; 9068–9086; 9126–9145
D	HUPE, Karl	13, 14 May 1948	C	7822–7892; 7986–8011
	IHN, Max Otto	3 Jun 1948		11054–11058
P	JACQUEMIN, Xavier	20 Feb 1948		4494–4547
	JANSSEN, Friedrich Wilhelm	3 Jun 1948		11058–11067
P	JOHN, Wilhelm	31 Jan 1948	C	2828–2841
P	JOHN, Otto A. W	8, 9 Jun 1948		11897–11918; 11966–11974
D	KALDEMORGEN, Maria	21 May 1948	C	9146–9156
D	KALLEN, Hans	21 May 1948	C	9017–9045
D	KASTL, Ludwig	20 Apr 1948		5528–5605
D	KERKMANN, Hans	12 May 1948	C	7630–7634
D	KEUL, Max	18, 19 May 1948	C	8385–8397; 8497–8533
P	KIRCHHOEFER, Georg	3 Feb 1948		3063–3079
D	KIRMSE, Hermann	20 May 1948	C	8683–8718
D	KIRSCHBAUM, Maria	25 May 1948	C	9665–9680
P	KLEINSTOLL, Heinrich	25 Feb 1948	C	4684–4713
P	KLOMBERG, Josef	31 Jan 1948	C	2891–2895
D	KOCH, Richard	3 Jun 1948	C	11102–11125
P	KOCH, Robert R	22 Jan 1948		2110–2148
D	KOEHLER, Wilhelm	13, 14 May 1948	C	7726–7727; 8057–8086
D	KOERNERT, Friedrich Georg	10 Jun 1948	C	12188–12200
D	KOETTGEN, Werner	10, 11 Jun 1948	C	12201–12259
	KORSCHAN, Heinrich Leo	3, 4 Jun 1948		11067–11072; 11235–11239
P	KOPP, Andre	4 Feb 1948		3173–3200

	Name	Date of testimony	Appeared before commission	Pages (mimeographed transcript)
D	KRAEMER, Paul	29 May 1948	C	10455–10467
D	KRAUS, Willi	12, 29 May 1948	C	7473–7505; 10404–10434
P	KRUEGER, Paul	23, 24 Jan 1948	C	2229–2276
	KRUPP, von BOHLEN und HALBACH, Alfried Felix Alwyn	13 Jan; 3 Jun 1948		1499–1559; 11034–11054
	KUPKE, Hans Albert Gustav	4 Jun 1948		11239–11244
D	LANG, Wilhelm	11, 12 Jun 1948	C	12299–12301; 12342–12359
D	LAUFFER, Eugen	5 Jun 1948	C	11472–11478
P	LEDOUX, Paul	4 Feb 1948		3138–3172
	LEHMANN, Werner Wilhelm Heinrich	28, 29 May 1948		10243–10261; 10343–10350
D	LEHMKUEHLER, Eugen	31 May 1948	C	10658–10676
D	LEONHARD, Emil	5 Jun 1948	C	11459–11472
D	LEYERS, Dr. Hans	4 Jun 1948	C	11254–11286
	LOESER, Ewald Oskar Ludwig			
D	LORENZ, Josef	18, 20 May; 12 Jun 1948	C	8480–8496; 8574–8632; 12384–12407
P	LUCKE, Fritz	23 Jun 1948		2159–2188
D	LUETHGEN, Ludwig	19 May 1948		8406–8425
P	LUTAT, Erich	16, 17 Feb 1948		4108–4142
D	LUX, Hermann	27, 28 May 1948	C	10181–10185; 10262–10279
P	MAINE, Henri	27 Jan 1948		2439–2464
D	MARQUARDT, Gerhardt	12, 13 May 1948		7511–7531; 7638–7700
D	MAY, Wilhelm	20, 21 May 1948	C	8760–8774; 8906–8917
D	METTE, Adolf	20 May 1948	C	8779–8797
D	MILCH, Erhard	15, 19 May 1948	C	7127–7191; 8089–8101
P	MORGAN, General John H	15, 16 Dec 1947		490–607
	MUELLER, Erich			
D	MUELLER, Friedrich	15 May 1948	C	8166–8182
D	MUELLER, Johann	2 Jun 1948	C	10949–10968
D	NEDELMANN, Dr. Ernst	25, 26 May 1948		9540–9547; 9704–9722
D	NICOLAIDIS, Nico	13, 15 May 1948	C	7745–7748; 8104–8121
P	NIEDERTUBESSING, Fritz	18, 19 Feb 1948		4348–4391
D	NIEKAEMPER, Theo	13 May 1948	C	7771–7800
D	NIERMANN, Walter	24 May 1948	C	9318–9337
D	NOHLES, Peter	22, 24 May 1948	C	9156–9210; 9301–9316

	Name	Date of testimony	Appeared before commission	Pages (mimeographed transcript)
D	Nordheim, Hans von	4, 5 Jun 1948	C	11391–11421; 11504–11521
P	Nowitzki, Valentin	17 Feb 1948		4191–4203
P	Ortmann, Paul	25 Feb 1948	C	4654–4683
P	Peine, Hugo	20 Dec 1947		898–935
D	Peretti, Dr. Eduard	8 May 1948	C	7099–7119
D	Pfeiffer, Friedrich	1 Jun 1948	C	10822–10832
	Pfirsch, Karl Heinrich			
P	Place, Jean	31 Jan 1948	C	2842–2890
D	Pleiger, Paul	21 Apr 1948		5635–5723
D	Podehl, Gustav	2 Jun 1948	C	10921–10949
D	Polikeit, Max	5 Jun 1948	C	11549–11593
D	Rauch, Christian	8 May 1948	C	7120–7125
D	Reiff, Wilhelm	8, 10 Jun 1948	C	11923–11965; 12099–12113
D	Richter, Lotte	12 Jun 1948	C	12323–12331
D	Rinne, Kurt	26 Apr 1948		5930–5952
D	Rohland, Paul Walter	22 Apr 1948		5740–5804
D	Rohlfs, Theodor	19 May 1948	C	8551–8573
D	Rosenbaum, Kurt	24 May 1948	C	9373–9401
P	Roth, Elizabeth	8, 9 Jan 1948		1251–1326
P	Roth, Ernestine	9 Jan 1948		1327–1375
P	Ruemann, Dr. Arthur	22 Jan 1948		2058–2084
P	Sach, Stanislav	29 Jan 1948		2614–2642
P	Sanders, Karl	28 Jan 1948	C	2559–2591
P	Saur, Karl Otto	8 Jun 1948		11798–11869
D	Schaefer, Werner	13 May 1948		7722–7726
D	Scheibe, Ernst Albrecht	20 May 1948	C	8719–8742
D	Scheider, Lorenz	10 Jun 1948	C	12113–12187
D	Schieber, Dr. Walther	27 May 1948		9983–10022
D	Schildkoetter, Arthur Gustav	24 May 1948	C	9401–9417
P	Schmelter, Fritz	8 Jun 1948		11870–11897
P	Schmid-Lossberg, Heinz	27 Jan 1948		2472–2493
P	Schmidt, Adam	23 Mar 1948	C	4852–4863
P/D	Schmidt, Paul Otto	6 Feb; 2 Apr 1948		3317–3388; 5348–5367
D	Schnadel, Georg	1 Apr 1948		5259–5317
D	Schnieders, Heinz	25 May 1948	C	9644–9665
P	Scholtens, Hendrik	10 Feb 1948		3616–3627
D	Schomburg, Rudolf	5 Jun 1948	C	11480–11493
D	Schroeder, Johannes	27–29 Apr 1948		6106–6249
P	Schroeder, Kurt Freiherr von	6, 9 Feb 1948		3393–3421; 3492–3497
P	Schroedter, Albert	29, 30 Jan 1948		2678–2767
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Glossary of Terms and Abbreviations

TERMS

Abwehrbeautfragter ---------- Counterintelligence agent in private industry.

Aktiengesellschaft ---------- Corporation.

Arbeitseinsatz A (Ausserbetrieblich) -- Labor Allocation A (external). Office in Krupp's personnel department concerned with procurement and recruitment.

Arbeitseinsatz I (J)* Innerbetrieblich) ---------- Labor Allocation I (internal). Office in Krupp's personnel department concerned with placement and assignment.

Aufsichtsrat ---------- Board of supervisors of a corporation.

Ausweichbetrieb ---------- Plant built in area less vulnerable to air raids and fighting which, when necessary, could carry on production of the main plant if the latter were destroyed or captured.

Beirst ---------- Advisory Board.

Dezernent(en) ---------- Department director(s).

Direktorium ---------- Board of directors; directorate; managing body of Krupp after firm became a family enterprise.

Engere Vorstand ---------- Select Vorstand. Highest executive body of Krupp.

Entwicklungskommission der Waffen -- Weapons Development Committee in the office of the Reich Minister for Armament and War Production.

Erweiterter Werkschutz ---------- Extended plant police. Plant police including auxiliary units.

Federfuehrend ---------- Office of primary interest; literally, those signing.

Gau ---------- Regional division, usually of size of province, of Nazi Party.

Gauleiter ---------- Leader of a Gau.

Gefolgschaftswesen ---------- Personnel department of Krupp.

Gusstahlfabrik ---------- Krupp Cast Steel Works (plant), Essen.

Hauptabwehrbeauftragter ---------- Chief counterintelligence agent in private industry.

* In German, letter "J" is frequently used for letter "I" to avoid confusion with Roman numeral "I".

Intendant	Administrative officer of military headquarters.
Kleiner Kreis	Small circle or group of industrialists which exercised great influence over the coal, iron, and steel industries.
Konsumanstalt	Cooperative stores of Krupp.
Konzern	Concern (term herein denotes all Krupp enterprises, including subsidiaries).
Kreis	Regional division, size of county or city district of Nazi Party.
Moerser	Heavy howitzer, caliber 210 mm or larger.
Monopolgesellschaft	Monopoly company.
Obman (DAF)	German Labor Front representative in a plant or shop.
Prokura	Authority to act for a company; power of attorney.
Prokurist	Corporation or company official with full power of attorney.
Reichsminister fuer Ruestung und Kriegsproduktion	Reich Minister for Armament and War Production (prior to September 1943, called Reich Minister for Arms and Munitions).
Reichsverband der deutschen Industrie	Reich Association of the German Industry (renamed "Reich Group Industry").
Reichswirtschaftsministerium	Reich Ministry of Economics.
Ruestungsrat	Armament Commission, advisory body in office of Reich Minister for Armament and War Production.
Stahlbau	Krupp steel plant at Rheinhausen.
Verein deutscher Eisenhuettenleute	Association of German Iron Foundrymen.
Vertrauensrat	Workers' council; a liaison body between workers and management.
Vorstand	Board of directors; managing body of Krupp while firm was incorporated.
Waffenausschuss	Armament Committee in the office of the Reich Minister for Armament and War Production.
Wehrwirtschaftsfuehrer	Military Economy Leader.
Werft	Shipyard.

Werkschar ---------- Plant squad, an organization component of the DAF (German Labor Front).

Werkschutz ---------- Plant police.

Widia ---------- One of the factories of the Cast Steel Works, which manufactured Widia steel tools.

Zuenderanfertigung ---------- Fuse production.

ABBREVIATIONS

ABA	Apparatebau Abteilung	Apparatus Manufacture Department.
A.G.	Aktiengellschaft	Corporation.
AGK	Ausfuhrgemeinschaft fuer Kriegsgeraet	Armament Export Association of Reichs Group Industry.
AK	Artillerie Konstruktion	Artillery Construction Department.
BfA	Bureau fuer Arbeiterangelegenheiten	Office for Employees' Affairs of Krupp Personnel Department.
BfaG	Bureau fuer allgemeine Gefolgschaftsangelegenbeiten	Office for Employees' Affairs (general).
BHO	Berg- und Huettenwerksgesellschaft Ost, G.m.b.H.	Mine and Foundry Association East, Incorporated.
FAH	Friedrich-Alfred-Huette	Friedrich Alfred Foundry.
Gestapo	Geheime Staatspolizei	Secret State Police.
GF	Gusstahlfabrik	Cast Steel Works (plant).
G.m.b.H.	Gesellschaft mit beschraenkter Haftung	Corporation; incorporated.
I.A.K.K.	Interallierte Kontrollkommission	Inter-Allied Control Commission during occupation of Germany after World War I.
Igwit	Ingenieurbuero fuer Wirtschaft und Technik G.m.b.H.	Engineering Office for Economics and Technical Developments, Inc.
IWG	Inspektion fuer Waffen und Geraete	Inspection office for arms and equipment of German Army.
KM	Kriegsmaterial	War Material Department.
Krawa	Kraftwagenfabrik	Motor Vehicle Department.
KZ	Konzentrationslager	Concentration Camp.
LaS	Landwirtschaftlicher Ackerbau Schlepper	Agricultural tractor (code name for a Krupp tank model).
MEFO (MeFo)	Metallurgische Forschungsgesellschaft, m.b.H.	Metallurgical Research Association, Inc. (organization supported by and working for the armament firms during the 1930's in violation of the Versailles Treaty).
NSDAP	Nationalsozialistische Deutsche Arbeiterpartei	Nazi Party.

OKW	Oberkommando der Wehrmacht	German Armed Forces High Command.
R-Vertretung	Ruestungsvertretung	R-Office (Berlin Branch Office of Krupp Armament Dept.).
RVE	Reichsvereinigung Eisen	Reich Association Iron.
RVK	Reichsvereinigung Kohle	Reich Association Coal.
RWKS	Rheinisch-Westfaelisches Kohlen Syndikat	Rhine/Westphalia Coal Syndicate.
RWM	Reichswehrministerium	Reich Defense Ministry (during Weimar Republic).
S.A.	Société Anonyme	Corporation; incorporated.
SS	Schutzstaffel(n)	Elite Guard and "Protective Force" of the Nazi Party.
Stalag	Stammlager	Permanent prisoner of war camp.
Stapo	Staatspolizei	State Police (same as Gestapo).
S-Werk	S-Plant (Silesian Plant)	Krupp - Berthawerk, Markstaedt.
Wa Pruef	Amtsgruppe fuer Entwicklung und Pruefung des Heereswaffenamts	Development and Testing Department of Army Ordnance Office.
WGE	Wirtschaftsgruppe Eisenschaffende Industrie	Economic Group "Iron Producing Industry".
WVHA	Wirtschafts-und Verwaltungshauptant	SS Economic and Administrative Main Office.

EXPLANATION OF "SIGNATURES" AND "INITIALS"

[signed] Schmidt	Document signed by Schmidt.
signed: Schmidt	The words "signed: Schmidt" were typed or stamped on the document.
signed signature	The words "signed signature" were typed or stamped on the document.
Schmidt	"Schmidt" typed or stamped.
[Initial] S [Schmidt]	Initial "S" is identified as Schmidt's initial.
[Initial] S	Unidentified initial "S".
Schmidt S [Initialed]	Initial "S" appears next to "Schmidt" typed or stamped name.

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